

3-17-2016

State v. Farfan-Galvan Clerk's Record Dckt. 42868

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|-------------------------------|---|-------------------------|
| STATE OF IDAHO, |) | SUPREME COURT NO. 42868 |
| |) | CASE NO. CR 14-11509 |
| Plaintiff/Respondent, |) | |
| |) | |
| vs |) | |
| |) | |
| EDGAR FARFAN-GALVAN, a.k.a. |) | |
| EDGAR FARFAN, a.k.a. EDGAR G. |) | |
| FARFAN GALVAN, a.k.a. EDGAR |) | |
| GALVAN FARFAN, a.k.a. EDGAR |) | |
| GALVAN-FARFAN a.k.a. EDGAR |) | |
| GALVAN |) | |
| |) | |
| <u>Defendant/Appellant.</u> |) | |

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fifth Judicial District
of the State of Idaho, in and for the County of Twin Falls

HONORABLE G. RICHARD BEVAN
District Judge

SARA THOMAS
State Appellate Public Defender
3050 North Lake Harbor Lane
Suite 100
Boise, Idaho 83703

ATTORNEY FOR APPELLANT

LAWRENCE WASDEN
Attorney General
Statehouse Mail Room 210
P.O. Box 83720
Boise, Idaho 83720-0010

ATTORNEY FOR RESPONDENT

State of Idaho vs. Edgar Farfan-Galvan

| Date | Code | User | | Judge |
|------------|------|---------|--|------------------|
| 11/3/2014 | NCRF | DENTON | New Case Filed-Felony | Roger Harris |
| | PROS | DENTON | Prosecutor assigned Grant Loebs | Roger Harris |
| | CRCO | DENTON | Criminal Complaint | Roger Harris |
| | ALSN | DENTON | Administrative License Suspension Notice And Temporary Permit | Roger Harris |
| | PCAF | DENTON | Probable Cause Affidavit In Support Of Arrest And/Or Refusal To Take Test | Roger Harris |
| | TFJP | DENTON | Twin Falls County Jail Packet | Roger Harris |
| | TISR | DENTON | TF County Sheriff's Inmate Screening Report | Roger Harris |
| | HRSC | DENTON | Hearing Scheduled (Preliminary 11/14/2014 08:15 AM) | Roger Harris |
| | | DENTON | Notice Of Hearing | Roger Harris |
| | CCPI | DENTON | Twin Falls County Court Compliance Program Interview | Roger Harris |
| | ARRN | DENTON | Arraignment / First Appearance | Roger Harris |
| | NORF | DENTON | Notification Of Rights Felony | Roger Harris |
| | CMIN | DENTON | Court Minutes | Roger Harris |
| | OCCR | DENTON | Order of Participation in Court Compliance as Condition of Release | Roger Harris |
| | ORPD | DENTON | Order Appointing Public Defender | Roger Harris |
| | BSET | DENTON | BOND SET: at 25000.00 | Roger Harris |
| 11/4/2014 | REQD | PIERCE | Request For Discovery/defendant | Roger Harris |
| | RESO | PIERCE | Response To Request For Discovery/defendant | Roger Harris |
| 11/14/2014 | CONT | YOCHAM | Continued (Preliminary 12/05/2014 08:15 AM) | Roger Harris |
| | | YOCHAM | Notice Of Hearing | Roger Harris |
| | WAVT | COOPE | Written Waiver of Time for Preliminary Hearing | G. Richard Bevan |
| | CMIN | COOPE | Court Minutes | G. Richard Bevan |
| 11/19/2014 | RESP | AGUIRRE | Response To Request For Discovery/plaintiff | Roger Harris |
| | REQP | AGUIRRE | Request For Discovery/plaintiff | Roger Harris |
| 11/20/2014 | EXMN | AGUIRRE | Ex-parte Motion for an Order for Transcript | Roger Harris |
| 11/21/2014 | WAVP | PIERCE | Waiver Of Preliminary Hearing | Roger Harris |
| | ORDR | DENTON | Order For Transcript At County Expense | Roger Harris |
| | OADC | YOCHAM | Order Holding Defendant To Answer To District Court | Roger Harris |
| | PHWV | YOCHAM | Hearing result for Preliminary scheduled on 12/05/2014 08:15 AM: Preliminary Hearing Waived (bound Over) | Roger Harris |
| | CHJG | YOCHAM | Change Assigned Judge | G. Richard Bevan |
| | HRWV | YOCHAM | Hearing Waived | G. Richard Bevan |

State of Idaho vs. Edgar Farfan-Galvan

| Date | Code | User | Judge |
|------------|------|-----------|---|
| 11/21/2014 | HRSC | BARTLETT | Hearing Scheduled (Arraignment 12/04/2014 08:30 AM) |
| | | BARTLETT | Notice Of Hearing |
| 11/24/2014 | TRAN | BAGRAMYAN | Copy of Transcript Filed in CR-2010-10207 for the Sentencing Hearing held 10/05/2010 |
| | AKSV | COOPE | Acknowledgment Of Service |
| 11/25/2014 | MDIS | PIERCE | Motion To Dismiss or Remand |
| | HRSC | BARTLETT | Hearing Scheduled (Motion 12/03/2014 10:00 AM) to Dismiss or Remand |
| 11/26/2014 | INFO | PIERCE | Information for a Felony: Operating a Motor Vehicle While Under the Influence of Alcohol |
| | NOHG | PIERCE | Notice Of Hearing |
| | MODQ | PIERCE | Motion To Disqualify Alternate Judge |
| 11/28/2014 | | BARTLETT | ***RE-SET*** Notice Of Hearing |
| 12/1/2014 | OBJC | PIERCE | State's Objection to Defendant's Motion to Dismiss and/or Remand |
| 12/3/2014 | DCHH | BARTLETT | Hearing result for Motion scheduled on 12/03/2014 10:00 AM: District Court Hearing Held Court Reporter: Virginia Bailey Number of Transcript Pages for this hearing estimated: to Dismiss or Remand |
| | CMIN | BARTLETT | Court Minutes |
| 12/4/2014 | ARRN | BARTLETT | Hearing result for Arraignment scheduled on 12/04/2014 09:00 AM: Arraignment / First Appearance |
| | DCHH | BARTLETT | District Court Hearing Held Court Reporter: Virginia Bailey Number of Transcript Pages for this hearing estimated: |
| | CMIN | BARTLETT | Court Minutes |
| | ORDR | BARTLETT | Memorandum and Order Re: Motion to Dismiss or Remand |
| 12/9/2014 | HRSC | BARTLETT | Hearing Scheduled (Entry of Plea 12/15/2014 11:00 AM) |
| | | BARTLETT | Notice Of Hearing |
| 12/15/2014 | CONT | BARTLETT | Continued (Entry of Plea 12/29/2014 08:45 AM) |
| | DCHH | BARTLETT | District Court Hearing Held Court Reporter: Sabrina Vasquez Number of Transcript Pages for this hearing estimated: |
| | CMIN | BARTLETT | Court Minutes |
| 12/17/2014 | | BARTLETT | Notice Of Hearing |

State of Idaho vs. Edgar Farfan-Galvan

| Date | Code | User | Judge |
|------------|------|----------|--|
| 12/19/2014 | CONT | COOPE | Continued (Entry of Plea 12/22/2014 08:45 AM) |
| | | COOPE | Notice Of Hearing |
| 12/22/2014 | HRSC | BARTLETT | Hearing Scheduled (Sentencing 12/29/2014 10:00 AM) |
| | DCHH | BARTLETT | Hearing result for Entry of Plea scheduled on 12/22/2014 08:45 AM: District Court Hearing Held Court Reporter: Sabrina Vasquez Number of Transcript Pages for this hearing estimated: |
| | CMIN | BARTLETT | Court Minutes |
| | PLEA | BARTLETT | A Plea is entered for charge: - GT (I18-8004 {F} Driving Under the Influence-(Third or Subsequent Offense)) |
| | FEGP | BARTLETT | Guilty Plea Advisory |
| | OFFR | BARTLETT | Offer |
| 12/24/2014 | | BARTLETT | Notice Of Hearing |
| 12/29/2014 | PLEA | PIERCE | Conditional Plea |
| | DCHH | BARTLETT | Hearing result for Sentencing scheduled on 12/29/2014 10:00 AM: District Court Hearing Held Court Reporter: Virginia Bailey Number of Transcript Pages for this hearing estimated: |
| | SNPF | BARTLETT | Sentenced To Pay Fine (I18-8004 {F} Driving Under the Influence-(Third or Subsequent Offense)) |
| | SNIC | BARTLETT | Sentenced To Incarceration (I18-8004 {F} Driving Under the Influence-(Third or Subsequent Offense)) Confinement terms: Penitentiary determinate: 2 years. Penitentiary indeterminate: 3 years. |
| | PROB | BARTLETT | Probation Ordered (I18-8004 {F} Driving Under the Influence-(Third or Subsequent Offense)) Probation term: 5 years 0 months 0 days. (Supervised) |
| | CMIN | BARTLETT | Court Minutes |
| | JCOP | BARTLETT | Judgment Of Conviction Upon a Plea of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on Probation |
| 1/6/2015 | NOTA | PIERCE | NOTICE OF APPEAL |
| | APSC | COOPE | Appealed To The Supreme Court |
| 1/7/2015 | NAPD | COOPE | Notice And Order Appointing State Appellate Public Defender In Direct Appeal |
| 1/8/2015 | CCOA | COOPE | Clerk's Certificate Of Appeal |
| 2/12/2015 | SCDF | COOPE | Supreme Court Filed Notice of Appeal Clerk's Record and Reporter's Transcript Due 4-17-15 |

State of Idaho vs. Edgar Farfan-Galvan

| Date | Code | User | Judge |
|-----------|------|-------|--|
| 2/18/2015 | SCDF | COOPE | Supreme Court Document Filed- Please Note the Corrected Supreme Court Docket No. 42868-2015 Due Date for Clerk's Record and Reporter's Transcript Remains as Set for 4-17-15 |
| 2/25/2015 | NTOA | COOPE | Amended Notice Of Appeal |
| 3/9/2015 | SCDF | COOPE | Supreme Court -- Filed Amended Notice of Appeal Reset Due Date - Transcript and Clerk's Record Due 04-30-15 |
| 3/11/2015 | LODG | COOPE | Lodged: Transcript on Appeal by e-mail |
| | NOTC | COOPE | Notice of Transcript Lodged, Virginia Bailey; December 3, 2014 Motion to Dismiss or Remand; December 29, 2014 Sentencing |
| 3/16/2015 | NOTC | COOPE | Notice of Lodging, Sabrina Vasquez; Entry of Guilty Plea 12/22/2014 |
| | LODG | COOPE | Lodged: Transcript on Appeal |

GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, ID 83301
Phone: (208) 736-4020
Fax: (208) 736-4120

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV -3 AM 11:04

BY [Signature]
CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff,

vs.

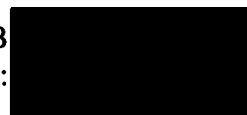
EDGAR FARFAN-GALVAN,
a.k.a. EDGAR FARFAN,
a.k.a. EDGAR G. FARFAN-GALVAN,
a.k.a. EDGAR GALVAN FARFAN,
a.k.a. EDGAR GALVAN-FARFAN,
a.k.a. EDGAR GALVAN,

Defendant

Case No. CR 14- 11509

CRIMINAL COMPLAINT

DOB
SSN:



Personally appears before me this 3 day of November, 2014, Stanley Holloway,
Deputy Prosecuting Attorney, Twin Falls County, State of Idaho, and presents this complaint,
pursuant to Idaho Criminal Rule 3 and based upon the attached sworn affidavit, that EDGAR
FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a.
EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN,
did commit the following:

CRIMINAL COMPLAINT - 1-

ORIGINAL

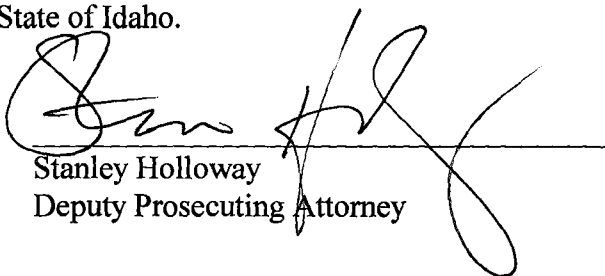
**OPERATING A MOTOR VEHICLE WHILE
UNDER THE INFLUENCE OF ALCOHOL
Felony, I.C. 18-8004, 18-8005(6)**

That the Defendant, EDGAR FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a. EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN, on or about or between November 1, 2014, and November 2, 2014, in the County of Twin Falls, State of Idaho, did drive a motor vehicle and/or was in actual physical control of a motor vehicle, on a street and/or highway open to the public, while under the influence of alcohol, or, in the alternative, did drive a motor vehicle with an alcohol concentration of .08 percent or more as shown by an analysis of his breath, in violation of Idaho Code Section 18-8004.

PART II

That the Defendant, EDGAR FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a. EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN, pled guilty to or was found guilty of at least two of the following prior misdemeanor violations of Idaho Code Section 18-8004, within the previous ten years, to wit: Jerome County case number CR-2008-2819 and Twin Falls County case number CR-2010-10207, in violation of Idaho Code Sections 18-8004, 18-8005(6).

All of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the State of Idaho.


Stanley Holloway
Deputy Prosecuting Attorney

Signed before me this 3 day of November, 2014.


Judge



Notice of Suspension for Failure of Evidentiary Testing (Advisory for Sections 18-8002 and 18-8002A, Idaho Code)

Issued To:

FAREAN-GALVAN **OSCAR**
 Last Name First Middle Date of Birth
2459 HLM AS HAZELTON, ID 83335
 Mailing Address
HAZELTON **ID** **83335**
 City State Zip

TWIN FALLS
 County of Arrest
2014 NOV -9 **AM 11:00**
 Date of Arrest Time of Arrest
CLERK
 State License Class
 Operating CMV? ☐ Yes ☒ No
 Transporting Hazardous Materials? ☐ Yes ☒ No

Suspension Advisory

- I have reasonable grounds to believe that you were driving or were in physical control of a motor vehicle while under the influence of alcohol, drugs, or other intoxicating substances. You are required by law to take one or more evidentiary test(s) to determine the concentration of alcohol or the presence of drugs or other intoxicating substances in your body. After submitting to the test(s) you may, when practical, at your own expense, have additional test(s) made by a person of your own choosing. You do not have the right to talk to a lawyer before taking any evidentiary test(s) to determine the alcohol concentration or presence of drugs or other intoxicating substances in your body.
- If you refuse to take or complete any of the offered tests pursuant to Section 18-8002, Idaho Code:
 - You are subject to a civil penalty of two hundred fifty dollars (\$250).
 - You have the right to submit a written request within seven (7) days to the **Magistrate Court of TWIN FALLS** County for a hearing to show cause why you refused to submit to or complete evidentiary testing and why your driver's license should not be suspended.
 - If you do not request a hearing or do not prevail at the hearing, the court will sustain the civil penalty and your license will be suspended with absolutely no driving privileges for one (1) year if this is your first refusal; and two (2) years if this is your second refusal within ten (10) years.
- If you take and fail the evidentiary test(s) pursuant to Section 18-8002A, Idaho Code:
 - I will serve you with this **NOTICE OF SUSPENSION** that becomes effective thirty (30) days from the **date of service** on this notice suspending your driver's license or driving privileges. If this is your first failure of an evidentiary test within the last five (5) years, your driver's license or driving privileges will be suspended for ninety (90) days with absolutely no driving privileges of any kind during the first thirty (30) days. You may request restricted non-commercial driving privileges for the remaining sixty (60) days of the suspension. Restricted driving privileges will not allow you to operate a commercial motor vehicle. If this is not your first failure of an evidentiary test within the last five (5) years, your driver's license or driving privileges will be suspended for one (1) year with absolutely no driving privileges of any kind during that period.
 - You have the right to an administrative hearing on the suspension before the **Idaho Transportation Department** to show cause why you failed the evidentiary test and why your driver's license should not be suspended. The request must be made in writing and received by the department within seven (7) calendar days from the **date of service** on this **NOTICE OF SUSPENSION**. You also have the right to judicial review of the Hearing Officer's decision.
- If you are admitted to a problem solving court program and have served at least forty-five (45) days of an absolute suspension of driving privileges, you may be eligible for a restricted permit for the purpose of getting to and from work, school, or an alcohol treatment program.

NOTICE OF SUSPENSION If you have failed the evidentiary test(s), your driving privileges are hereby suspended per #3 above, commencing thirty (30) days from the date of service on this notice. If a blood or urine test was administered, the department may serve a **Notice of Suspension** upon receipt of the test results.

Date of Service: **11/02/14**

This Suspension for Failure or Refusal of the Evidentiary Test(s) is separate from any other Suspension ordered by the Court. Please refer to the back of this Suspension Notice for more information.

| | | | |
|------------------------------------|--|----------------------------|---|
| Signature of Reporting Officer | Print Name and I.D. Number of Reporting Officer L ALONAE, JASON 3743 | Agency Code 0004 | Telephone Number 208-324-6000 |
|------------------------------------|--|----------------------------|---|

Department use only Failure: ☒ Breath ☐ Urine/Blood ☐ Refusal

White Copy - If failure - to ITD; if refusal - to Court

Yellow Copy - to Law Enforcement

Pink Copy - to Court

Goldenrod Copy - to Driver

Suspension Information

The audio version of the Suspension Advisory substantially conforms to the written text of the Suspension Advisory.

For Refusal of Evidentiary Testing (Pursuant to Section 18-8002, Idaho Code)

You have the right to submit a written request within seven (7) days to the Magistrate Court indicated on the face of this notice for a hearing to show cause why you refused to submit to or complete evidentiary testing. This is your opportunity to show cause why you refused to submit or failed to complete evidentiary testing and why your driver's license should not be suspended. **Note:** A hearing request for refusing evidentiary testing must be submitted to the Magistrate Court.

If you fail to request a hearing or do not prevail at the hearing, you are subject to a \$250 civil penalty and the court will suspend your driver's license and/or driving privileges with absolutely no driving privileges for one (1) year for your first offense, or for two (2) years for your second offense within ten (10) years (unless you meet the provisions of paragraph 4 as noted in the Suspension Advisory on the reverse side).

For Failing Evidentiary Testing (Pursuant to Section 18-8002A, Idaho Code)

You have been served this *Notice of Suspension* by a peace officer who had reasonable grounds to believe that you were operating a vehicle while intoxicated. After submitting to the test(s), you may, when practicable, have additional tests conducted at your own expense.

If you take the evidentiary test(s) and the results indicate an alcohol concentration of .08 or greater (.02 or greater if you are under 21 years of age), or the presence of drugs or other intoxicating substances in violation of the provisions of Sections 18-8004, 18-8004C, and 18-8006, Idaho Code, the peace officer shall:

1. Serve you with this *Notice of Suspension*, which becomes effective thirty (30) days after the date of service indicated on the reverse side of this notice. Failure of an evidentiary test will result in a ninety (90) day suspension of driving privileges, with absolutely no driving privileges during the first thirty (30) days of suspension. You may request restricted driving privileges during the final sixty (60) days of the suspension. If this is not your first failure of an evidentiary test within the last five (5) years, all of your driving privileges will be suspended for one (1) year with absolutely no driving privileges of any kind (unless you meet the provisions of paragraph 4 as noted in the Suspension Advisory on the reverse side).
2. If you were operating or in physical control of a commercial vehicle and the evidentiary test results indicate an alcohol concentration of:
 - A. .04 to less than .08, your commercial driving privileges will be suspended for ninety (90) days. You will have absolutely no commercial driving privileges of any kind.
 - B. .08 or greater (.02 or greater if you are under 21 years of age), or test results that indicate the presence of drugs or other intoxicating substances, all of your driving privileges will be suspended for ninety (90) days, with possible non-commercial driving privileges for the final sixty (60) days of the suspension. You will have absolutely no commercial driving privileges of any kind during the full ninety (90) day suspension.
 - C. If this is not your first failure of an evidentiary test within the last five (5) years, all of your driving privileges will be suspended for one (1) year and you will have absolutely no driving privileges of any kind (unless you meet the provisions of paragraph 4 as noted in the Suspension Advisory on the reverse side).

Hearing Request for Failure of Evidentiary Test

You have the right to request an administrative hearing on the suspension before the Idaho Transportation Department. Your request must be made in writing and be received by the department no later than seven (7) calendar days after the date of service on this *Notice of Suspension*. The request **must state the issues intended to be raised at the hearing**, and must include your name, date of birth, driver's license number, date of arrest, and daytime telephone number because the hearing will be held by telephone. The burden of proof, by preponderance of evidence, shall be upon the driver as to the issues raised in the hearing, pursuant to Section 18-8002A(7), Idaho Code.

If you request a hearing, it shall be held within twenty (20) days of the date the hearing request was received by the Idaho Transportation Department (Section 18-8002A, Idaho Code). **If you do not request an administrative hearing within seven (7) days of service of this *Notice of Suspension*, your right to contest the suspension is waived. This suspension is separate and apart from any suspension that may be ordered by the court as a result of any criminal charges that may be brought against you.**

Judicial Review

You may appeal the decision of the Hearing Officer by seeking judicial review to the District Court (Section 18-8002A, Idaho Code). Your appeal must be filed as a civil proceeding in the District Court, pursuant to Chapter 52, Title 67, Idaho Code.

Restricted Driving Permits

If your driving privileges are suspended for a period of ninety (90) days pursuant to Section 18-8002A, Idaho Code, you may request restricted driving privileges for the final sixty (60) days of the suspension (IDAPA Rule 39.02.70). Restricted driving privileges will not allow you to operate a commercial motor vehicle. You may make your written request for restricted driving privileges at any time after the service of this *Notice of Suspension*.

Reinstatement Requirements

Before being reinstated on this suspension, you will be required to pay a reinstatement fee. Any other suspension imposed by the court for this offense will require an additional reinstatement fee.

To request an administrative hearing or apply for a restricted driving permit relating to an administrative license suspension for failing evidentiary testing:

- Make your request in writing, including a daytime telephone number, to the Idaho Transportation Department, Driver Services Section, PO Box 7129, Boise ID 83707-1129, or
- Fax your request to Driver Services at (208) 332-4124, or
- Email your request to DriverRecords@itd.idaho.gov

If you have questions or need additional information regarding this notice or your driving privileges, call Driver Services at (208) 334-8735.

Lifeloc Technologies, Inc.
Sequence v6.24d
Serial No. 90205065
Unit: BAC

Event No.: 43
Date: 11/02/2014

| # | Type | Time | Result |
|----|-------------|-------|--------|
| 1) | Air Blank | 01:13 | .000 |
| 2) | Manual Test | 01:13 | .137 |
| 3) | Air Blank | 01:15 | .000 |
| 4) | Manual Test | 01:16 | .128 |

~~FARFAN CALVALE, CEAR~~
Subject

3743

I.D.

LALONDE

Operator

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

Departmental Report # T14001097

IN THE DISTRICT COURT OF THE 5TH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS.

2014 NOV -3 AM 11:06

BY CLERK
DEPUTY

THE STATE OF IDAHO,

Plaintiff,

FARFAN-GALVAN, Edgar

Defendant.

DOB: [REDACTED]

DL#: [REDACTED]

State: ID

State of Idaho,

County of Twin Falls

COURT CASE NUMBER _____
PROBABLE CAUSE AFFIDAVIT IN SUPPORT
OF ARREST AND/OR REFUSAL TO TAKE TEST

SS

I, Trooper Jason Lalonde, the undersigned, being first duly sworn on oath, deposes and says that:

1. I am a peace officer employed by Idaho State Police.

2. The defendant was arrested on November 2, 2014 at 12:52 ☒ AM ☐ PM for the crime of driving while under the influence of alcohol, drugs or any other intoxicating substances pursuant to Section 18-8004 Idaho Code.
Second or more DUI offense in the last five years and under 21? (18-8004A) ☐ YES ☒ NO ☐ FELONY ☐ MISDEMEANOR
Second or more DUI offense in the last five years and excessive? (18-8004C) ☐ YES ☒ NO ☐ FELONY ☐ MISDEMEANOR
Second or more DUI offense in the last ten years and over 21? (18-8005) ☒ YES ☐ NO ☒ FELONY ☐ MISDEMEANOR

3. Location of Occurrence: SH50 Near MP 3

4. Identified the defendant as: FARFAN-GALVAN, Edgar by: (check box)

☐ Military ID ☒ State ID Card ☐ Student ID Card ☒ Drivers License ☐ Credit Cards

☐ Paperwork found ☐ Verbal ID by defendant

Witness: _____ identified defendant.

Other: _____

5. Actual physical control established by: ☐ Observation by affiant ☐ Observation by Officer

☒ Admission of Defendant to: Driving and crashing. ☐ Statement of Witness: _____

☐ Other: _____

6. I believe that there is probable cause to believe the defendant committed such crime because of the following facts:

(NOTE: You must state the source of all information provided below. State what you observed and what you learned from someone else, identifying that person):

ORIGINAL

PROBABLE CAUSE FOR STOP AND ARREST:

On November 2, 2014, at approximately 0013 hours, I, Trooper Jason Lalonde, responded to a property damage crash on SH50 near milepost 3 in the County of Twin Falls, State of Idaho. Upon Arrival, I observed Officers Arrington and Rawlins of the Kimberly Police Department on scene. I observed the driver of the vehicle, identified as Edgar FARFAN-GALVAN (DOB: [REDACTED]), seated in the right rear passenger seat of a Kimberly Police Department patrol vehicle. There was a light wind and the temperature was approximately 41 degrees. I observed FARFAN-GALVAN was wearing a t-shirt and sweatpants and only one shoe. Officer Rawlins retrieved the other shoe and a sweatshirt for FARFAN-GALVAN.

I observed a green in color 1997 Chevrolet Monte Carlo (Idaho registration: 2J61141) stopped on its roof on the north side of SH50 near milepost 3.

Sgt. Keith Thompson arrived on scene to assist and advised he would obtain photographs of the crash scene for me. Sgt. Thompson later advised me he completed the Collision Information Form and Towed Vehicle/Inventory Form for me as well.

I asked FARFAN-GALVAN to perform the Standardized Field Sobriety Tests (SFST's). Prior to any testing, FARFAN-GALVAN advised he was not under the care of a physician for any reason. I asked FARFAN-GALVAN if he had suffered any recent head trauma and he advised he was in a crash approximately five years ago, but had suffered no deficits from it. I asked FARFAN-GALVAN if he had any problems with his spine or back, hips, ankles, or feet and he advised he only had pain in his right leg from getting kicked by an animal at work. FARFAN-GALVAN advised he has good balance and has no issues walking and keeping his balance.

During the Horizontal Gaze Nystagmus, I observed lack of smooth pursuit in both eyes, distinct and sustained nystagmus in both eyes, and onset of nystagmus at 45 degrees in FARFAN-GALVAN's right eye. During the Walk and Turn (WAT), I observed FARFAN-GALVAN step off line, take too many steps on both the steps down the line and back down the line, sway and lose his balance, and started before being instructed to do so. On the One Leg Stand (OLS), I observed FARFAN-GALVAN sway and put his foot down twice. I also had to instruct FARFAN-GALVAN to continue after he stopped without being instructed to do so.

I asked FARFAN-GALVAN if it would be fair to say he is intoxicated and he indicated in the affirmative.

I placed FARFAN-GALVAN under arrest for I.C. 18- 8004, Driving Under the Influence, Third Offense in Ten Years. I handcuffed his hands behind his back and double locked the handcuffs. I searched FARFAN-GALVAN in front of my patrol car's camera. I placed FARFAN-GALVAN in the right rear passenger seat of my patrol vehicle. I sat in the driver's seat of my patrol vehicle where I could see and hear FARFAN-GALVAN clearly. I checked FARFAN-GALVAN's mouth for foreign material and found none. I timed the fifteen minute waiting period using the stopwatch mode on my wrist watch. After the fifteen minute waiting period I asked FARFAN-GALVAN if he burped or vomited and he said no. I asked FARFAN-GALVAN to provide two breath samples into my issued LifeLoc FC20. The results were 0.137/0.128% BrAC.

I transported FARFAN-GALVAN to the Twin Falls County Jail where I was advised to transport him to St. Luke's Magic Valley for medical clearance. After obtaining medical clearance from St. Luke's Magic Valley Regional Medical Center, I transported FARFAN-GALVAN back to the Twin Falls County Jail. I transferred custody to Twin Falls County Jail deputies without incident.

I, Trooper Jason Lalonde, being first duly sworn, deposes and says:

1. THAT he/she is a police officer for the Idaho State Police for 1.5 years.
2. THAT on the 2nd day of November, 2014, he/she initiated a complaint on a Uniform Traffic form against the named defendant FARFAN-GALVAN, Edgar for the crime of Driving Under the Influence (I.C. 18-8004). The report thereof attached hereto and incorporated by reference to this Affidavit sets forth the basis for probable cause for the arrest or bonding of the named defendant.
3. THAT the following statement is offered as probable cause if no report is attached.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

D.U. I. NOTES

| | | |
|--------------------------------------|---|--|
| Odor of alcoholic beverage | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Admitted drinking alcoholic beverage | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Slurred speech | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Impaired memory | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Glassy/bloodshot eyes | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Sobriety Tests—Meets Decision Points?

| | | |
|----------------|---|-----------------------------|
| Gaze Nystagmus | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Walk & Turn | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| One Leg Stand | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Crash Involved | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Injury | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Other

Drugs Suspected ☐ Yes ☒ No

Drug Recognition Evaluation Performed ☐ Yes ☒ No

Reason Drugs are Suspected:

Prior to being offered the test, the defendant was substantially informed of the consequences of refusal and failure of the test as required by Section 18-8002 and 18-8002A, Idaho Code.

☒ Defendant was tested for alcohol concentration, drugs or other intoxicating substances. The test(s) was/were performed in compliance with Section 18-8003 & 18-8004 (4), Idaho Code, and the standards and methods adopted by the Idaho State Police.

BAC: 0.137/128% by: ☐ Breath Instrument Type: ☐ Intoxilyzer 5000 ☒ Alco-Sensor/Lifeloc

Serial # SN 90205865-C2

☐ Blood AND/OR ☐ Urine Test results pending? ☐ Yes ☒ No (attached)

Name of person administering breath test: Trooper Jason Lalonde Date certification expires: 04/30/2015

☐ Defendant refused the test as follows:

Videotape # Arbitrator.

I, , being first duly sworn, deposes and says:

1. THAT he/she is a police officer for the Idaho State Police for years.
2. THAT on the day of 20 , he/she initiated a complaint on a Uniform Traffic form against the named defendant for the crime of . The report thereof attached hereto and incorporated by reference to this Affidavit sets forth the basis for probable cause for the arrest or bonding of the named defendant.
3. THAT the following statement is offered as probable cause if no report is attached.

I certify (or declare) under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

11/2/2014
(Date)


(Signature)

Defendant's name: FARFAN-GALVAN, Edgar
Date of arrest: 11/02/2014

ORDER

Based upon the above Affidavit, the Court hereby finds that there is Probable Cause to believe that a crime or crimes has been committed, and that the Defendant committed said crime or crimes.

Dated this 2nd day of November, 2014, at 0240 hours.

MAGISTRATE

| | <u>IDAHO</u> | |
|---------------|----------------|---|
| <u>CHARGE</u> | <u>CODE</u> | <u>VIOLATION</u> |
| 1. | <u>18-8004</u> | <u>Driving Under the Influence (3rd offence in less than ten years)</u> |
| - | | |
| 2. | <u></u> | <u></u> |
| - | | |
| 3. | <u></u> | <u></u> |
| - | | |
| 4. | <u></u> | <u></u> |
| - | | |

Twin Falls County Sheriff's Office

Inmate Screening Report

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED



Inmate No. 150178 Name FARFAN, EDGAR GALVAN

Race H Sex M

Booking No. 207499

DOB [REDACTED]

2014 NOV -3 AM 8:41

BY

CLERK

DEPUTY

Question:

Answer: Comments:

I want to be represented by an attorney in this case and I can not afford to hire one.

Y

I understand that it is important for me to be truthful in answering questions and providing information in this form

Y

I understand if I am not truthful I may be subject to penalties for perjury

Y

I understand that the information in this form can not be used against me in an criminal case. except

Y

To dispute the truth of my testimony if I choose to testify in court.

Y

Or in a prosecution for perjury or contempt if I provide information in this form that I know is false

Y

What is your phone number?

Y 208-316-2078

Are you employed?

Y

What is the name and address of your employer?

Y EXTREME STAFFING, TWIN FALLS ID

What month and year did you last work?

Y OCT 2014

How much did you earn per month?

Y IT CHANGES EVERY WEEK

Are you married? What is your spouses name?

N

Is your spouse employed?

N

Where is your spouse employed?

N

How much does your spouse earn per month?

Are you currently serving a sentence of incarceration for a crime for which you have been found guilty?

N

Do you or any of your dependents recieve public assistance? Such as

N

Social Security(SSI), Medicaid, AFDC, Food Stamps, or child care assistance

N

List the persons that recieve the asistance, including name, relationship, type and amount.

N

In the last 12 months, have you received any income from a business, profession or other form of self employment?

N

Do you have income from rentals, interest, dividends, annuity payments, or any other sources?

Y DAIRY JOB 5 DAYS A WEEK SINCE AUG 2ND

Twin Falls County Sheriff's Office



Inmate Screening Report

Identify the source and amount of this income

Y \$2200 A MONTH

Do you have any cash, a savings or checking account?

Y

What is the total amount ?

Y 1.05

Do you own any homes or land?

N

In what County and State is the Property?

N

What is the value f the property, subtracting any amount you owe?

N

Do you own any Stocks, Bonds, Notes, Coins or precious metals?

N

List the type and value of this property

N

Do you own any vehicles?

N

List Year, Make , Model and value of vehicles

N

Do you own any other items in excess of \$1000 excluding household furnishings and clothing?

N

List the property and value

N

Do you receive child support payments for any of the dependents listed?

N

List the childs name and monthly support received

N

List your Debts and the monthly amount paid

Y PAY DAY LOANS \$75 RENT \$200


Inmate Signature

Officer ID 2506

Name BALLARD, JACOB

Date 09/10/1987 00:00

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

427 Shoshone Street North
Twin Falls, Idaho 83301

BY

CLERK

DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

EDGAR FARFAN-GALVAN
2459 HWY 25
HAZELTON, ID 83335

DOB: [REDACTED]
DL: [REDACTED]

CASE NO: CR-2014-0011509

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that this case is set for:

Preliminary : Friday, November 14, 2014 08:15 AM
Judge: Honorable Roger Harris

I hereby certify that copies of this Notice were served as follows on this date Monday, November 03, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25 (a)(6). Notice is also given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to a prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bollar, Borresen, Campbell, Cannon, Dolan, Duff, Harris, Holloway, Hodges, Ingram, Israel, Kershaw, Redman, Robinson, and K. Walker.

Edgar Farfan-Galvan
Mailed ☒ Hand Delivered
I received a copy of this notice.


Defendant's Signature

Grant Loeb, Prosecuting Attorney
Folder Mailed

Defense Counsel
Folder Mailed

Dated: Monday, November 03, 2014
Kristina Glascock
Clerk of the District Court

By: 
Deputy Clerk

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

DEFENDANT'S NAME: Edgar Partan

2014 NOV -8 PM 2:01

LEGAL STATUS (KNOWN)

BY [Signature] CLERK

Prior Felonies: YES ☒ NO ☐ Comments: '

DEPUTY

Prior Misdemeanors: ☒ YES ☐ NO Comments: 05-MTC, 08-DUI, DWOP, 09-

DWOP 2+, 10-DUI 2+

Prior Same as Present: ☒ YES ☐ NO Comments: 2 previous DUI's

Other Pending Charges no

FTA's (w/in last 10 years): no

Prior Probation Violations:

FTP's

Pre-Sentence Violations: no

INFORMATION VERIFIED: YES ☒ NO ☐ PARTIALLY ☐

COMMENTS: Would leave in the Courts discretion

DATE: 11/3/14

PROBATION OFFICER: [Signature]

Admit CCP

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

Jarjan, Edgar
Defendant.

CASE NO: CR-M-1509 DEPUTY

NOTIFICATION OF RIGHTS--
FELONY

The purpose of this initial appearance is to advise you of your rights and charge(s) against you.

- You have the right to be represented by an attorney at all times.
- If you want an attorney, but cannot pay for one, the court will appoint one to help you. If you are found guilty or plead guilty, you may be ordered to reimburse Twin Falls County for the cost of your defense.
- You have the right to remain silent. Any statement you make could be used against you.
- You have the right to bail.
- You have the right to a preliminary hearing before a judge.
- The purpose of a preliminary hearing is to determine whether probable cause exists to believe you have committed the crime(s) charged. A preliminary hearing is not a trial to decide guilt or innocence.
- You can cross-examine all witnesses who testify against you.
- You can present evidence, testify yourself if you wish, and have witnesses ordered to testify by subpoena.
- If the court finds probable cause exists that you committed the crime(s) charged, or if you waive your preliminary hearing, you will be sent to the District Court for arraignment.

If you have any questions about the charge(s), about your rights or the court process, don't hesitate to speak up. It is important that you understand.

Acknowledgment of Rights

I have read this entire document and I understand these rights as set forth above.

11/03/2014
Date

Edgar Jarjan
Defendant's signature

NOTIFICATION OF RIGHTS--1

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV -3 PM 01

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

ARRAIGNMENT MINUTES

Date 11/3/14 Time 1:00pm Counter 119 Case No. CR-14-11509
Judge Harris Deputy Clerk J. Petersen Interpreter _____ Ctrm # 3

State of Idaho

vs Edgar Farfan-Galvan

Attorney S Holloway
Attorney J Call

Offense: Felony - DUI

☒ Appeared in person ☐ Border Patrol Hold ☒ Bond 25,000 ☐ per warrant(s) ☐ to be held without bond
☐ OR release ☐ To serve days per warrant ☐ Walk In Arraignment/Summons ☐ Bond previously posted ☒ Court Compliance program
☐ AGENT'S WARRANT - ~~To be replaced in 72 hours or defendant to be released~~
☐ Failed to appear ☐ Warrant issued ☐ Forfeit previous bond ☐ Bond _____

☐ Complaint read ☐ Probation violation read ☐ Defendant waived reading of probation violation
☒ Rights and penalties given ☒ Rights form signed ☐ Rights and penalties understood

☒ Defendant waived counsel ☐ Private counsel _____ ☐ to hire
☒ Public defender appointed ☐ Public defender denied ☐ Public defender confirmed/continued

☐ Plead not guilty
☐ Plead guilty

☐ Court accepted plea

☐ Pretrial _____
☐ Court trial _____
☐ Jury trial _____
☐ Sentencing _____
☒ Prelim 11.14.14 @ 8:15 AM
☐ Fugitive (identity) _____
☐ Arraignment _____

☐ Hearing to be set ☐ Other _____

☐ PV - admit ☐ Admit/Deny _____
☐ PV - deny ☐ Evidentiary _____
☐ Disposition _____

Conditions of bond/OR release/probation:

☒ Check in with public defender immediately upon release
☒ Check in with court compliance officer; Pay costs associated with court compliance ☒ SCRAM unit authorized
☐ Court entered no contact order
☐ To be transported to _____ ☐ Report to jail. Court signed book and release order

GPS is authorized

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV -8 PM 4:05

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

CLERK

DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Farfan-Galvan

Defendant.

CASE NO. CR-2014-0011509

**ORDER FOR PARTICIPATION
IN COURT COMPLIANCE AS
CONDITION OF RELEASE**

IT IS HEREBY ORDERED, as a condition of either the Defendant's release on his own recognizance or by posting bond, that the above-named Defendant shall submit to monitoring and supervision by the Court Compliance Program ("CCP") administered by the Twin Falls County Adult Probation Department. Defendant is required to sign up with the Court Compliance Program within one (1) hour of release from custody. The Court Compliance Office is located at 245 3rd Ave. N., Twin Falls, Idaho.

The monitoring and supervision may include, but may not be limited to, compliance with any reporting requirements imposed by CCP representatives; submitting to tests of Defendant's blood, breath, urine, saliva, hair or other bodily fluids or tissues; complying with curfews or other directives relating to Defendant's living circumstances, activities or personal associations, and the like.

Any search of the defendant's person or property, except as otherwise specified herein, is authorized if there is probable cause or other legal basis, including consideration of the defendant's consent, for such search.

☒ The court makes a specific finding, based upon the nature of the alleged crime as described in the court's file, the recommendations of counsel and the Defendant's criminal

history, that a requirement for drug and/or alcohol testing should be imposed in this case and is reasonably related to the purposes for pre-trial release, including the protection of the public and ensuring the appearance of the Defendant at future court proceedings. Therefore the court authorizes CCP representatives to require, as a condition of the Defendant's release,

☒ Drug testing ☒ Alcohol testing ☒ SCRAM Unit Authorized ☒ GPS Authorized

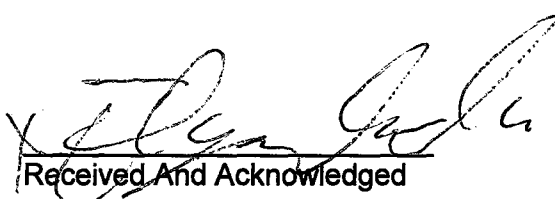
IT IS FURTHER ORDERED that immediately upon release from custody, Defendant shall meet with CCP officers to sign up for the Court Compliance program, and provide both residential and employment addresses, and phone numbers as required. If any of these things change, the defendant will inform court compliance of the change.

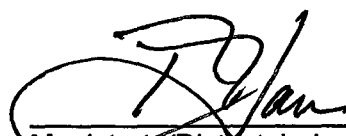
IT IS FURTHER ORDERED, and Defendant agrees by signing this document, that Defendant shall pay all fees and other charges levied by the Court Compliance Program, including but not limited to costs for sample collection or testing, and charges for participation in the program.

NOTICE

Any failure to comply with this order or with the requirements of the Court Compliance Program may result in the revocation of any order of release (whether or not such release was secured by bond, cash or other collateral or upon the Defendant's own recognizance), the forfeiture of any bond posted, and the issuance, without notice, of a bench warrant for the Defendant's immediate arrest. By acknowledging his or her receipt of this order, Defendant specifically accepts this condition of release and waives all right to notice of violating the conditions of release on bail, and any bail revocation hearing.

DATED this 3rd day of November, 2014.


Received And Acknowledged


Magistrate/District Judge

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

Fifth Judicial District Court, State of Idaho
In and For the County of Twin Falls
427 Shoshone Street North
Twin Falls, Idaho 83301-0126

2014 NOV -3 PM 2:05

CLERK

DEPUTY

STATE OF IDAHO
Plaintiff,

vs.

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335

Defendant.

DOB: [REDACTED]

DL: [REDACTED]

Case No: CR-2014-0011509

ORDER APPOINTING PUBLIC DEFENDER

The Court being fully advised as to the application of the above named defendant and good cause having been shown:

IT IS ORDERED that an attorney be appointed through the Public Defender's office for the County of Twin Falls, State of Idaho, to represent the above named Defendant in all proceedings in the above entitled case.

Defendant is to contact the Public Defender's Office
231 4th Avenue North
P.O. Box 126
Twin Falls, Id 83303-0126
Telephone Number 208-734-1155

to make an appointment to discuss your case before your next hearing.

The Defendant is further advised that he/she may be required to reimburse the Court for all or part of the cost of court appointed counsel.

Date: Nov 3, 2014

[Signature]
Judge

Copies to:

X Public Defender

X Prosecutor

 Defendant

[Signature]
Deputy Clerk

Order Appointing Public Defender

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, Idaho 83303-0126
Telephone: (208) 734-1155
Fax: (208) 734-1161

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV -4 AM 11:44

BY _____ CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

THE STATE OF IDAHO,)
)
Plaintiff,)
)
v.)
)
EDGAR FARFAN-GALVAN,)
)
Defendant.)
_____)

Case No. CR 14-11509

REQUEST FOR DISCOVERY

TO: GRANT P. LOEBS, Prosecutor for the County of Twin Falls, State of Idaho,
and his agents:

The Defendant in the above-entitled case by and through his/her attorney, Marilyn B. Paul, and her agents, does hereby request, pursuant to Rule 16 of the Idaho Criminal Rules, discovery and inspection of the following information, evidence, and materials:

1) Pursuant to Idaho Code §18-6708, Rule 16 of the Idaho Criminal Rules, Article 1 §13 of the Idaho Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, and United States Code Annotated 18-2518, the Defense requests immediate disclosures of the dates and times of any interceptions of any wire or oral communications of Defendant, the contents of any wire or oral communications of Defendant

or evidence derived therefrom, a copy of the application and Order authorizing interception of any oral or wire communications of defendant, the date of the entry and the period authorized, any authorization to intercept wire or oral communications of Defendant or intercept surveillance of telephones listed in Defendant's name, or at Defendant's home or place of business.

2) The Defense requests access to the original tapes of all taped telephone contacts and/or "body wire" surveillance contacts by any person at any time with the Defendant and/or other persons during the course of the criminal investigation of the Defendant.

3) The Defense requests to be a copy of any written agreement of cooperation with any witness expected to be called at trial or who were utilized in the investigation of this criminal action, any and all Confidential Informant supervision documents, full records of payment to any Confidential Informant, police reports of any crimes in which any State's witness was suspect, the identity of any probation and/or parole officer that was supervising any State's witness, and any and all probation and/or parole records pertaining to any State's witness.

4) Any material or information within your possession or control, or which hereafter comes into your possession or control, which tends to negate the guilt of the accused as to the offense charged or which would tend to reduce the punishment therefore. This request extends to material and information in the possession or control of members of your staff and of any others who have participated in the investigation or evaluation of the case who either regularly report, or with reference to the particular case have reported to the office of the prosecuting attorney;

5) Any relevant written or recorded statements made by the Defendant, or copies thereof, within the possession, custody, or control of the State the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and also the substance of any relevant oral statement made by the Defendant whether before or after arrest to a peace officer, prosecuting attorney, or his agent; and any recorded testimony of the Defendant before a grand jury which relates to the offense charged;

6) The prior criminal record of the Defendant, if any, as is now or may become available to the prosecuting attorney;

7) Any written or recorded statements of a co-defendant; including but not limited to the substance of any relevant oral statements made by a co-defendant, whether before or after arrest in response to interrogation by any person.

8) Any books, papers, documents, photographs, tangible objects, buildings or places, or copies or portions thereof, which are in the possession, custody, or control of the prosecuting attorney which are material to the preparation of the defense, or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to the Defendant;

9) Any results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with a particular case, or copies thereof, within the possession, custody, or control of the prosecuting attorney, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence;

10) A written list of the names and addresses of all persons having knowledge of relevant facts who may be called by the state as witnesses at the trial, together with any record of prior convictions of any such person which is within the knowledge of the prosecuting attorney or his agents or to any official involved in the investigatory process of

the case;

11) The statements made by the above listed prosecution witness or any prospective prosecution witnesses to the prosecuting attorney or his agents or to any official involved in the investigatory process of this case.


12) Any reports and memoranda in your possession which were made by a police officer or investigator in connection with the investigation or prosecution of the case. For all law enforcement notes including handwritten notes.

13) The Defense requests pursuant to Idaho Rule of Criminal Procedure 16(b)(8) and I.R.E. 705 that the Prosecution provide the Defense with the qualifications of any person to be tendered as an expert witness in this prosecution pursuant to IRE 702; the facts and data upon which the offered expert bases any opinion or inference they will be offering in this prosecution; a complete content of any expert opinion the prosecution will offer as assisting the trier of fact to understand the evidence or determine any fact at issue in this criminal prosecution.

Defendant requests that the above information be delivered to counsel within fourteen (14) days of the date of this request, or if not deliverable, the undersigned requests permission to inspect and copy said information, evidence and materials on the 18th day of November, 2014, at the hour of 3:00 P.M.

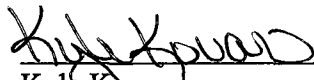
DATED This 4th day of November, 2014.

PUBLIC DEFENDER'S OFFICE

By: 
Marilyn B. Paul
Chief Public Defender

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
REQUEST FOR DISCOVERY AND INSPECTION to be delivered to the office of Grant Loeb
on the 4th day of November, 2014.



Kyle Kovar
Officer Manager

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, Idaho 83303-0126
Telephone: (208) 734-1155
Fax: (208) 734-1161

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED
2014 NOV -4 AM 11:44
BY CLERK
 DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|----------------------|---|----------------------|
| THE STATE OF IDAHO, |) | |
| |) | Case No. CR 14-11509 |
| |) | |
| v. |) | RESPONSE TO REQUEST |
| |) | FOR DISCOVERY |
| EDGAR FARFAN-GALVAN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMES NOW, the Defendant, by and through his/her attorney and submits the
following Response to Request for Discovery:

1. The Defendant has no copy or photograph books, papers, documents, photographs, tangible objects or copies or portions thereof, which are intended to be produced as evidence at trial at this time.
2. The Defendant has no copy of photograph results or reports of physical or mental examinations, scientific tests of experiments made in connection with this case that the Defendant intends to provide as evidence at trial at this time.
3. The defense may call the Defendant in this action; Randy Towell, Investigator for the Office of the Public Defender in addition to those witnesses listed in the State's Response to Discovery and Supplemental Response to Discovery, if any. Defendant objects to the remainder of information requested as beyond the scope of permissible Discovery under I.C.R. 16.

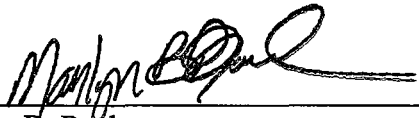
ORIGINAL

4. That in the event the Defendant discovers additional evidence or witnesses to be called at trial, prior to and during trial, evidence will be subjected to inspection by the Prosecuting Attorney, and Defendant reserves the right to file Supplemental Responses with respect to any additional evidence or witnesses.

5. In response to the Prosecution's request for notice of alibi, the Defendant requests written notice of the exact location of the subject offense or offenses.

DATED this 4th day of November, 2014.

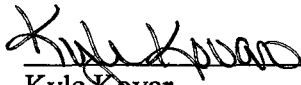
OFFICE OF THE PUBLIC DEFENDER



Marilyn B. Paul
Chief Public Defender

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing RESPONSE TO REQUEST FOR DISCOVERY to be forwarded, via courthouse mail, to the office of the Prosecuting Attorney, County of Twin Falls, Idaho, on the 4th day of November, 2014.



Kyle Kovar
Office Manager

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED
2014 NOV 14 PM 2:34

STATE OF IDAHO,
Plaintiff.

vs.

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

DOB: [REDACTED]
DL: [REDACTED]

BY _____ CLERK
CASE NO: CR-2014-0011509
DEPUTY
NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Preliminary Friday, December 05, 2014 08:15 AM
Judge: Honorable Roger Harris

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, November 14, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25 (a)(6). Notice is also given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to a prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bollar, Borresen, Campbell, Cannon, Dolan, Duff, Harris, Holloway, Hodges, Ingram, Israel, Kershaw, Redman, Robinson, and K. Walker.

Defendant: Edgar Farfan-Galvan

Mailed _____ Hand Delivered _____

Private Counsel:
Marilyn Paul
Twin Falls Public Defender
P.O. Box 126
Twin Falls ID 83303-0126

Mailed _____ Hand Delivered Court Box

Prosecutor: Grant Loebis

Mailed _____ Hand Delivered Court Box

Dated: Friday, November 14, 2014
Kristina Glasecock --Clerk of the District Court

By: Laura J. Glasecock
Deputy Clerk

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV 14 AM 9:55

BY _____ CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE COURT

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Fartan-Galvan

Defendant.

Case No. CR 14-11509

TIME WAIVER FOR
PRELIMINARY HEARING

I understand that I have the right to have a preliminary hearing conducted within 14 days of my initial appearance if I am in custody, and within 21 days of my initial appearance if I have posted bail or have otherwise been released from custody. By executing this document, I preserve my right to have a preliminary hearing, but waive my right to have the preliminary hearing held within the above time constraints.

I further acknowledge that the preliminary hearing will be rescheduled at the court's convenience and that the preliminary hearing can be held beyond the times required by Idaho Criminal Rule 5.1. There have been no promises made to me in exchange for executing this waiver.

DATED this 13 day of November, 2014.

Edgar Fartan-Galvan
Defendant

[Signature]
Defense Attorney

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION
DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

MINUTES FOR PRELIMINARY HEARING

JUDGE: Norris
DEPUTY CLERK: T. J. Jellham
CASE # CR 14-11509

DATE: 2014 NOV 14 / 14 / 9 / 56
TIME: 8:15
TAPE: 838
COURTROOM: 114 DEPUTY

THE STATE OF IDAHO,
Plaintiff,

vs.

Edgar Pearson-Graham
Defendant.

ATTY: Jephthynn Harrington

ATTY: Sam Bens

☒ In Custody ☒ Not Present ☐ Failed to Appear

THE DEFENDANT IS CHARGED WITH:

DUI

COURT REVIEWED THE FILE.

COURT READ THE COMPLAINT. COUNSEL WAIVED READING.

☒ DEFENDANT WAIVED PRELIMINARY HEARING. ☒ WRITTEN WAIVER FILED

DEFENDANT WAIVED **SPEEDY** PRELIMINARY HEARING. WRITTEN WAIVER FILED

COURT GAVE THE DEFENDANT HIS/HER RIGHTS IN THIS MATTER.

WRITTEN OFFER SIGNED BY DEFENDANT AND FILED WITH THE COURT.

☒ COURT ACCEPTED WAIVER.

DEFENDANT WAS BOUND OVER TO DISTRICT COURT.

☒ STATE / DEFENSE REQUESTED A CONTINUANCE. BY STIPULATION

☒ CONTINUED TO: 12-5-14 WITH JUDGE

PRELIMINARY HEARING TO BE HELD SEE PAGE 2

COUNSEL MOVED FOR THE EXCLUSION OF WITNESSES COURT GRANTED.

DEFENDANT BOUND OVER AFTER PRELIM

CASE DISMISSED/REDUCED AFTER PRELIM

DEFENSE MOVED FOR BOND REDUCTION,

STATE OBJECTED STIPULATED ARGUMENT PRESENTED

BOND WILL REMAIN AS PREVIOUSLY SET. O.R. RELEASE

BOND RESET AT \$ (BOND AMOUNT IS FOR THIS CASE ONLY)

DEFENDANT TO ENROLL IN COURT COMPLIANCE UPON RELEASE/BOND

COURT SIGNED ORDER FOR COURT COMPLIANCE

OTHER CONDITIONS OF BOND

STATE DISMISSED THE CHARGE(S)

STATE FILED AMENDED COMPLAINT COURT READ AMENDED COMPLAINT

STATE AMENDED CHARGE(S) TO

STATE REDUCED THE CHARGE(S) TO MISD.

COURT GAVE DEFENDANT HIS/HER RIGHTS IN THIS MATTER.

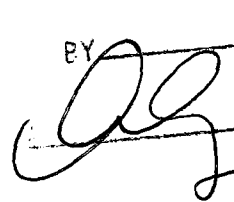
DEFENDANT ENTERED GUILTY PLEA TO THE REDUCED CHARGE.

COURT ACCEPTED PLEA. SET FOR SENTENCING ON

COMMENTS:

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 19 PM 3:14

BY  CLERK
DEPUTY

GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, ID 83303
Phone: (208) 736-4020
Fax: (208) 736-4120

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|----------------------|---|--------------------------------|
| STATE OF IDAHO, |) | Case No. CR 14-11509 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | RESPONSE TO REQUEST FOR |
| |) | DISCOVERY |
| EDGAR FARFAN-GALVAN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMES NOW, the Twin Falls County Prosecuting Attorney's Office by and through its Attorney of Record, Jethelyn Harrington, Deputy Prosecuting Attorney, and submits the following response to the Request for Discovery pursuant to Idaho Criminal Rule 16:

The State of Idaho has complied with such request by:

A. Providing any material or information within the prosecuting attorney's possession or control which tends to negate the guilt of the accused as to the offense charged or which would tend to reduce the punishment therefor.

B. Providing copies of reports and memoranda in possession of the prosecuting attorney which were made by a police officer or investigator in connection with the investigation or prosecution of the case.

C. Providing a copy of the defendant's prior criminal record that is within the knowledge of the prosecuting attorney.

D. Providing copies of statements made by prosecution witnesses or prospective prosecution witnesses to the prosecuting attorney or the prosecuting attorney's agents or to any official involved in the investigatory process of this case, unless a protective order is issued as provided in Criminal Rule 16 (k).

E. Providing a written summary or report of any testimony that the State intends to introduce pursuant to Rules 702, 703 or 705 of the Idaho Rules of Evidence at trial or hearing.

F. Providing pages D 1-96. Although the State has made every effort to fully comply with its duty to disclose evidence pursuant to Idaho Criminal Rule 16, that does not alleviate the defendant or defense counsel of his/her responsibility to inspect and or copy evidence mentioned in sections G and H.

G. Permitting the defendant to inspect and copy or photograph any relevant written or recorded statements made by the defendant that are in the possession, custody or control of the State, the existence of which is known or is available to the prosecuting attorney by the exercise of due diligence; and the substance of any relevant, oral statement made by the defendant whether before or after arrest to a peace officer, prosecuting attorney or the prosecuting attorney's agent; and the recorded testimony of the defendant before a grand jury which relates to the offense charged.

H. Permitting the defendant to inspect and copy or photograph any written or recorded statements of a co-defendant; and the substance of any relevant oral statement made by a co-defendant whether before or after arrest in response to interrogation by any person known by the co-defendant to be a peace officer or agent of the prosecuting attorney. The defendant is permitted to inspect and copy or photograph books, papers, documents, photographs, tangible objects, buildings, or places, or copies or portions thereof, which are in the possession, custody or control of the prosecuting attorney and which are material to the preparation of the defense, or intended for use by the prosecutor as evidence at trial, or obtained from or belonging to the defendant. If these items exist, they are disclosed in the State's discovery response and attachments (see section F above) and in any supplemental responses and attachments.

I. Permitting the defendant to inspect and/or copy the items mentioned in sections G and H, which are in the possession of the following prosecuting/police agencies:

Twin Falls County Prosecuting Attorney's Office, Twin Falls County Sheriff's Office

ISP, Kimberly Police Department

Reasonable arrangements for inspection and/or copying materials within the possession of the Twin Falls County Prosecuting Attorney's Office may be made by phoning (208) 736-4020.

In order to assist in facilitating the defendant/defense counsel in the inspection/copying of the materials mentioned in sections G and H, the State has provided a release.

J. Providing the following substance of any relevant oral statements made by a defendant or co-defendant to the Twin Falls County Prosecuting Attorney or his agents:

Please refer to discovery.

K. Providing the following witness list:

WITNESS

ADDRESS

All persons listed on the chain of custody sheets attached to evidence in this case
Don Thueson, Twin Falls County Prosecutor's Office

Trooper Laborde - TSP
Officer Arrington - KPD
Officer Bawkins - KPD
Sgt. Thompson - TSP

Any prior felony convictions of these individuals that are within the knowledge of the prosecuting attorney are attached with the documents in subsection F.


The State reserves the right to call any of the above listed witnesses and use any of the evidence referred to in this Response to Discovery, Supplemental Response(s) to Discovery, and the accompanying attachments of those documents at trial.

L. Providing:

- ☒ a redacted copy of the discovery printed on white paper as well as unredacted copy of the discovery printed on paper of a color that is clearly distinguishable from white paper
- ☐ an e-mailed copy of discovery to _____.

The State reserves the right to supplement discovery as information becomes available and to call any or all witnesses listed by the Defense.

DATED November 18th, 2014.


Jethelyn Harrington
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

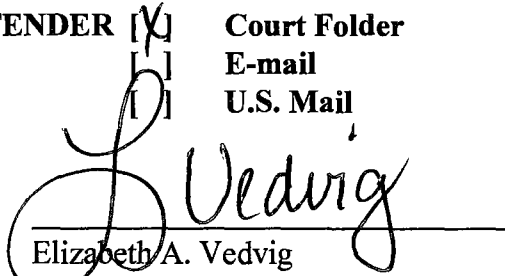
I hereby certify that on November 19, 2014, I served a copy of the foregoing
Response to Request for Discovery and ☒ Unredacted copy of Discovery and/or ☒
Redacted copy of Discovery thereof to the following:

OFFICE OF THE PUBLIC DEFENDER ☒

Court Folder

E-mail

U.S. Mail


Elizabeth A. Vedvig
Legal Assistant

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 19 PM 3:14

BY

CLERK

DEPUTY

GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, ID 83303
Phone: (208) 736-4020
Fax: (208) 736-4120

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff,

vs.

EDGAR FARFAN-GALVAN,

Defendant.

Case No. CR 14-11509

REQUEST FOR DISCOVERY

TO: OFFICE OF THE PUBLIC DEFENDER, Attorney of Record for the above-named defendant.

COMES NOW, the Twin Falls County Prosecuting Attorney's Office by and through its Attorney of Record, Jethelyn Harrington, Deputy Prosecuting Attorney, and does hereby request, pursuant to Rule 16 of the Idaho Criminal Rules, discovery and inspection of the following information, evidence, and materials:

1. To furnish the Prosecuting Attorney's Office with copies of any photograph books,

papers, documents, photographs, tangible objects or copies or portions thereof, which are within the possession, custody, or control of the defendant, and which defendant intends to introduce in evidence at the trial.

2. To provide the Prosecuting Attorney's Office with copies of any results or reports of physical or mental examinations and scientific tests or experiments made in connection with this case, or copies thereof, within the possession or control of the defendant, which the defendant intends to introduce in evidence at the trial or which were prepared by a witness whom the defendant intends to call at the trial when the results or reports relate to testimony of the witness.

3. To furnish the Prosecuting Attorney's Office a list of names, addresses, and phone numbers of witnesses he intends to call at trial as well as a detailed summary of said witness' expected testimony.

4. Please provide, pursuant to I.R.E. 705, the names, addresses and credentials of expert witnesses expected to testify at the trial of this cause. Also set forth the facts and data upon which the expert(s) will rely, and the opinion(s) to be given by such expert(s).

5. That if, subsequent to compliance with this request and prior to or during trial, the defendant discovers additional witnesses, or decides to use any additional evidence, or witnesses, and such evidence is or may be subject to discovery and inspection under prior order of this court, that the defendant promptly notify the Prosecuting Attorney's Office and the court of the existence of additional evidence and/or names of additional witnesses to allow the State to make an appropriate motion for additional discovery or inspection.

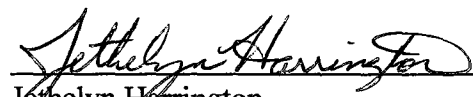
In addition to the above requested information pursuant to Rule 16 of the Idaho Criminal Rules, Grant P. Loebs, Prosecuting Attorney for Twin Falls county, hereby request, pursuant to

Rule 12.1 and Idaho Code Section 19-519, the defendant to furnish to the Prosecuting Attorney's Office within ten (10) days or at such other time as the court directs, Defendant's Notice of Alibi and Notice of Defense of Alibi stating specifically the place or places at which the defendant claims to have been at the time of the alleged offense(s) and the name(s) and address(es) of the witness(es) upon whom he intends to rely to establish such alibi.

In addition if prior to or during trial defendant learns of additional witnesses whose identity should have been included as required in Subsection 1 of Idaho Code Section 19-519, the defendant shall promptly notify the Prosecuting Attorney's Office of the existence and identity of the witnesses.

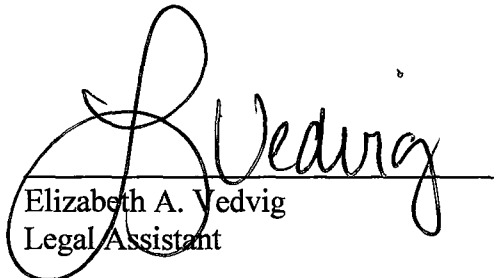
The undersigned further requests permission to inspect and copy said information, evidence, and materials if they have not been received in this office within two weeks of the date of this request.

DATED November 18th, 2014.


Jethelyn Harrington
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

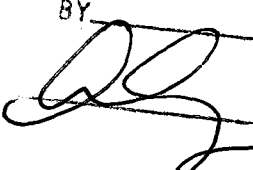
I hereby certify that on November 19, 2014, I served a copy of the foregoing **REQUEST FOR DISCOVERY** by placing a copy of same into the mail slot for **OFFICE OF THE PUBLIC DEFENDER** located at the District Court Services Office and for delivery on the regular delivery route made every morning and afternoon to all Courthouse offices receiving mail from the Prosecutor's Office.


Elizabeth A. Vedvig
Legal Assistant

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P. O. Box 126
Twin Falls, Idaho 83303-0126
(208)734-1155
ISB# 7193

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 20 AM 8:37

BY  CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

THE STATE OF IDAHO,

Plaintiff,

v.

EDGAR FARFAN-GALVAN,

Defendant.

Case No. CR 14-11509

EX PARTE MOTION FOR
AN ORDER FOR TRANSCRIPT

COMES NOW, the Twin Falls County Public Defender's Office by and through its attorney of record, Samuel S. Beus, Deputy Public Defender, and moves the above-entitled Court for an order allowing the preparation of a transcript of the Sentencing Hearing, held in case CR 10-10207, on October 5, 2010.

DATED This 20th day of November, 2014.

OFFICE OF THE PUBLIC DEFENDER


Samuel S. Beus
DEPUTY PUBLIC DEFENDER

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
MOTION FOR PREPARATION OF SENTENCING HEARING TRANSCRIPT AT COUNTY
EXPENSE, was delivered on the 20 day of November, 2014, to the following:

GRANT LOEBS
TWIN FALLS COUNTY
PROSECUTOR

Betsy Brown

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 21 AM 8:40

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE COURT

CLERK

DEPUTY

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Fenton-Galvan

Defendant.

Case No. CR 14-11509

WAIVER OF PRELIMINARY HEARING

By signing this document, the undersigned defendant hereby waives the right to have a preliminary hearing in this matter. By waiving my right to have a preliminary hearing, I am not admitting guilt in this matter, but am acknowledging that the state could produce sufficient evidence for the court to bind me over to the district court to answer to the charge of: BUR. I understand that by waiving the preliminary hearing, the magistrate will bind the case over to district court for me to answer these charge(s).

I have discussed the consequences of waiving the preliminary hearing with my attorney. Being fully advised, I hereby waive my right to a preliminary hearing in this case.

DATED this 20 day of November, 2014.

Edgar Fenton-Galvan
Defendant

[Signature]
Defense Attorney

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, ID 83303-0126
Tel: (208) 734-1155

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV 21 AM 11:03

BY [Signature] CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

THE STATE OF IDAHO,

Plaintiff,

v.

EDGAR FARFAN-GALVAN,

Defendant.

Case No. CR 14-11509

ORDER FOR TRANSCRIPT
AT COUNTY EXPENSE

PURSUANT TO the Ex-parte Motion for an Order for Transcript being filed and, FOR
GOOD CAUSE APPEARING THEREFORE,

IT IS HEREBY ORDERED AND THIS DOES ORDER: that a transcript of the
Sentencing Hearing, in case CR10-10207, held on October 5, 2010, before the Honorable
Thomas D. Kershaw, be prepared at County Expense.

DATED this 21 day of November, 2014.

[Signature]
Judge

ORIGINAL

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that a true and correct copy of the foregoing ORDER was delivered to the Twin Falls County Prosecutor's on the 21 day of November, 2014.

GRANT LOEBS
OFFICE OF THE
PROSECUTING ATTORNEY


☐ Hand Deliver
☒ Courthouse Mail

OFFICE OF THE
PUBLIC DEFENDER

☐ Hand Deliver
☒ Courthouse Mail

COURT REPORTER

☐ Hand Deliver
☒ Courthouse



DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 NOV 21 PM 2:47

BY CLERK

 DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

EDGAR FARFAN-GALVAN,

Defendant.

Case No. CR-2014-0011509

**ORDER HOLDING
DEFENDANT TO ANSWER TO
DISTRICT COURT**

☒ Defendant having freely, knowingly and voluntarily waived a preliminary hearing, I order that defendant be held to answer to the charge(s) of:
118-8004 F Driving Under the Influence-(Third or Subsequent Offense) in the District Court.

☒ From the evidence presented, I find that the offense(s) of:
118-8004 F Driving Under the Influence-(Third or Subsequent Offense) has/have been committed and there is sufficient cause to believe the defendant is guilty thereof. I order that defendant be held to answer in the District Court.

DATED 21 Nov 14.

Magistrate Judge

CERTIFICATE OF SERVICE

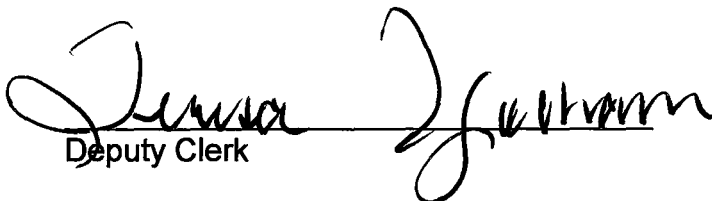
I hereby certify that on the 21 day of November, 2014, I caused to be served a true and correct copy of the foregoing, by the method indicated below, and addressed to the following:

Grant Loeb
Twin Falls County Prosecutor's Office
P.O. Box 126
Twin Falls, ID 83303-0126


☐ U.S. Mail
☐ Hand Delivered
☐ Faxed
☒ Court Folder

Marilyn Paul
Twin Falls Public Defender
P.O. Box 126
Twin Falls, ID 83303-0126

☐ U.S. Mail
☐ Hand Delivered
☐ Faxed
☒ Court Folder


Deputy Clerk

November 21, 2014 4:54 PM

By  Clerk
Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301**

STATE OF IDAHO,
Plaintiff.

vs.

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

DOB: 
DL: 

CASE NO: CR-2014-0011509

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Arraignment Thursday, December 04, 2014 08:30 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, November 21, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

Private Counsel: Mailed _____ Box ☒
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loebis
Mailed _____ Box ☒

Dated: Friday, November 21, 2014
Kristina Glascock –Clerk of the District Court

By: 

Deputy Clerk

NOTICE OF HEARING

DISTRICT COURT
Fifth Judicial District
County of Twin Falls • State of Idaho

NOV 24 2014

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

State of Idaho,

Plaintiff

Vs.

Edgar Farfan-Galvan

Defendant

Case No. CR-2010-10207

Ordered and Prepared for CR-2014-11509

Acknowledgment of Service

I, Kristina Glascock, Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, do hereby certify that the transcript of the Sentencing Hearing held October 5, 2010 in the above-entitled case was delivered to counsel for the Plaintiff and for the Defendant on the 24th day of November, 2014.

Kristina Glascock

Clerk of the District Court

By: Mila Bagrangun

Deputy Clerk

Plaintiff's Counsel: Jethelyn Harrington
Twin Falls County Prosecuting Attorney
P.O. Box 126
Twin Falls, Idaho 83303-0126

Court Box

Defendant's Counsel: Samuel Beus
Twin Falls County Public Defender
P.O. Box 126
Twin Falls, Idaho 83303-0126

Court Box

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, Idaho 83303-0126
(208) 734-1155
ISB #7193

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 25 AM 11:39

BY R CLERK
DEPUTY

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

STATE OF IDAHO,

Plaintiff,

v.

EDGAR FARFAN-GALVAN,

Defendant.

CASE NO: CR 2014-11509

**MOTION TO DISMISS OR
REMAND**

COMES NOW the Defendant, by and through --- attorney of record, Sam Beus, and pursuant to Idaho Criminal Rules 12(b)(2) and 12(b)(6), Amendments V, VI and XIV of the U.S. Constitution, and Article I, Section 13 of the Idaho Constitution, and moves this Court for an order dismissing or remanding this case. This motion is made and based upon the following:

FACTS

This case was filed with the Court on November 3, 2014 as a felony DUI. The grounds for charging this case as a felony are that the Defendant has two prior convictions for DUI within the past 10 years. One of those alleged DUIs is Twin Falls County case number CR 2010-10207.

In that case, Defendant was charged with DUI for events occurring on September 5, 2010. The case was filed on September 7, and Defendant posted bond prior to appearing in Court for arraignment. On September 9, he appeared at the courthouse counter, where he filed a written plea of guilty form and his case was set for sentencing. *See Written Plea of Guilty*, Twin Falls Case Number CR 2010-10207 (filed September 9, 2010) (attached hereto as *Exhibit A*). On
MOTION TO DISMISS AND/OR REMAND AND MEMO IN SUPPORT-1

ORIGINAL

September 14, an application for the public defender was filed with the Court. The following day, the Court denied that application.

Defendant first appeared in front of the Court on October 5, 2010 for sentencing. The State apparently chose not to appear for this sentencing hearing, so the sentencing hearing consisted entirely of a dialogue between the Court and Defendant. A transcript of that sentencing has been filed in this case, and indicates the following dialogue between the Court with regards to the Defendant's right to counsel:

THE COURT: Edgar Farfan-Galvan, CR-10-10207. Mr. Galvan, are you represented by counsel?

THE DEFENDANT: What's that?

THE COURT: Do you have a lawyer?

THE DEFENDANT: I don't.

THE COURT: Okay. What would you like to say before I decide what I should do?

[Defendant makes comments for sentencing, and the Court proceeds to sentence the Defendant with no further reference to his right to counsel]

Transcript of Sentencing Hearing, CR 2010-10207 (held October 5, 2010).

ARGUMENT

II. The Defendant's 2010 DUI conviction is unconstitutional

In *State v. Weber*, the Idaho Supreme Court held that a Defendant could collaterally attack a prior conviction used to enhance a current charge if the Defendant's right to counsel on the prior conviction was violated. 140 Idaho 89, 90 P.3d 314 (2004). The *Weber* Court grounded its decision almost exclusively in *Custis v. United States*, where the U.S. Supreme Court held that when a Defendant's sentence was enhanced for a prior conviction, the Defendant could collaterally attack the prior conviction if his challenge was based on a denial of counsel. *See* 140 Idaho at 92-94, 90 P.3d at 317-319 (relying on *Custis v. United States*, 511 U.S. 485, 114 S.Ct. 1732, 128 L.Ed.2d 517 (1994)). Idaho therefore appears to have adopted the federal

constitutional standard that defines the circumstances under which an individual can collaterally attack a prior conviction based on denial of counsel.

As early as 1967, the U.S. Supreme Court held that waiver of counsel cannot be presumed from a silent record. *Burgett v. Texas*, 389 U.S. 109, 114-15 (1967) (citing with approval to *Carnley v. Cochran*, 369 U.S. 506 (1962)). In Idaho, a valid waiver of counsel must be knowing, voluntary and intelligent. *State v. Lovelace*, 140 Idaho 53, 64, 90 P.3d 278, 289 (2003). The *Lovelace* Court held that in order to waive counsel, “a defendant must be aware of the nature of the charges filed against him and the possible penalties flowing from those charges, as well as the dangers and disadvantages of self-representation.” *Id.* (citing *U.S. v. Harris*, 683 F.3d 322, 324-325 (9th Cir. 1982)). Furthermore, “the trial court must discuss with the defendant, in open court, whether the defendant’s waiver was knowingly and intelligently made, with an understanding of the charges, and possible penalties and dangers of self-representation.” 140 Idaho at 64, 90 P.3d at 289 (emphasis added) (*see also State v. Anderson*, 144 Idaho 743 (2007) (citing with approval to an effective waiver of counsel discourse, including an explanation of how an attorney would be familiar with relevant statutes, procedural and evidence rules, and other rules of law, and that the defendant would be held to those standards)).

Consistent with this authority from the U.S. and Idaho Supreme Courts, Idaho Code § 19-857 requires that when determining whether a waiver is valid, the Court “shall consider such factors as the person’s age, education and familiarity with the English language and the complexity of the crime involved.” (cited for this purpose in *Anderson*, 144 Idaho at 746).

In summary, a constitutionally-adequate waiver of counsel requires that the Court, on the record, explain to the Defendant the dangers and disadvantages of self-representation, and conduct some inquiry into the Defendant’s ability to understand the proceedings, including a consideration of his age, education and familiarity with the English language and the complexity

MOTION TO DISMISS AND/OR REMAND AND MEMO IN SUPPORT-3

of the crime involved. A valid waiver of counsel cannot be presumed from a record that is otherwise silent.

In the 2010 DUI, Defendant was not represented by counsel, although he had applied for counsel and been denied. The first and only time he appeared in Court on this charge was at his sentencing hearing. When he did appear, the Court did not conduct any inquiry into whether he was aware of his right to counsel, and did not inform Defendant of any of the dangers or disadvantages of self-representation.


Defendant's 2010 conviction for misdemeanor DUI was entered in violation of his right to counsel, without an effective waiver. This conviction therefore cannot be relied upon to enhance the current charge to a felony DUI.

CONCLUSION

WHEREFORE, Defendant respectfully requests this Court dismiss and/or remand this charge, on the grounds and for the reason that the Defendant's guilty plea in the 2010 DUI was entered in violation of the Defendant's right to counsel.

ORAL ARGUMENT IS REQUESTED.

DATED this 25 day of November, 2014.



SAMUEL S. BEUS
Deputy Public Defender

RECEIVED
TWIN FALLS CO. ID
FILED

2010 SEP -9 PM 2:14

BY _____ CLERK

_____ ST. DEPT. 100

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Farfan-Galvan

Defendant.

CASE NO. CR 10-10207

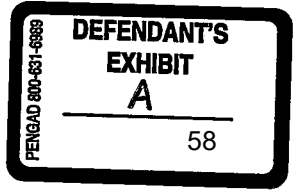
PLEA OF GUILTY

1. Name: Edgar Farfan
2. Last school grade completed: Valley High school 10th
3. Do you read and understand English? yes
4. Have you ever been treated for any mental illness? no
5. Are you now under the influence of alcohol, drugs or medication that affects your ability to understand and answer questions? no
6. What are you charged with? DUI - 2nd off
7. What is the maximum sentence? Jail: 10-365 days Fine: 2,000 Lic. Susp. 1 yr. mandatory
8. Do you realize if you plead guilty, you give up or waive your rights to remain silent, have a jury trial and confront witnesses? yes
9. Has anyone made threats or promises to get you to plead guilty? no
10. Do you understand if you are on parole or probation, your guilty plea may violate your probation or parole? yes
11. Do you understand the judge does not have to follow recommendations made by your attorney or the prosecutor and you cannot change your guilty plea if recommendations are not followed? yes
12. Do you understand if you plead guilty and you commit crimes in the future, this conviction would be considered in the future case and could cause a more severe penalty in the future case? yes
13. Is there anything you do not understand? no
14. Do you admit you are guilty as charged? yes

Date: 09/07/10

My signature: Edgar Farfan

PLEA OF GUILTY--1




CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that a true and correct copy of the foregoing was delivered to the following on the 25 day of November, 2014.



Grant Loebs
Twin Falls County Prosecutor

_____

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 26 AM 10:10

BY SR CLERK
DEPUTY

GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, Idaho 83303
Phone: (208) 736-4020
Fax: (208) 736-4120

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|--------------------------------|---|--|
| STATE OF IDAHO, |) | Case No. 14-11509 |
| |) | |
| Plaintiff, |) | INFORMATION FOR A FELONY: |
| vs. |) | Operating a Motor Vehicle While Under |
| |) | the Influence of Alcohol |
| EDGAR FARFAN-GALVAN, |) | |
| a.k.a. EDGAR FARFAN, |) | DOB: [REDACTED] |
| a.k.a. EDGAR G. FARFAN-GALVAN, |) | SSN: [REDACTED] |
| a.k.a. EDGAR GALVAN FARFAN, |) | |
| a.k.a. EDGAR GALVAN-FARFAN, |) | |
| a.k.a. EDGAR GALVAN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Jethelyn Harrington, Deputy Prosecuting Attorney for Twin Falls County, State of Idaho, who in the name and by the authority of said State, prosecutes in its behalf, in proper person, comes now into said District Court of the County of Twin Falls, State of Idaho, and gives the Court to understand and be informed that EDGAR FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a. EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN, the above-named defendant, is accused by this Information of the crime of OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL, a Felony.

Information - 1

ORIGINAL

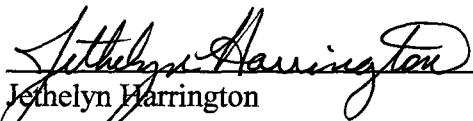
**OPERATING A MOTOR VEHICLE WHILE
UNDER THE INFLUENCE OF ALCOHOL
Felony, I.C. 18-8004, 18-8005(6)**

That the Defendant, EDGAR FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a. EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN, on or about or between November 1, 2014, and November 2, 2014, in the County of Twin Falls, State of Idaho, did drive a motor vehicle and/or was in actual physical control of a motor vehicle, on a street and/or highway open to the public, while under the influence of alcohol, or, in the alternative, did drive a motor vehicle with an alcohol concentration of .08 percent or more as shown by an analysis of his breath, in violation of Idaho Code Section 18-8004.

PART II

That the Defendant, EDGAR FARFAN-GALVAN a.k.a. EDGAR FARFAN a.k.a. EDGAR G. FARFAN-GALVAN a.k.a. EDGAR GALVAN FARFAN a.k.a. EDGAR GALVAN-FARFAN a.k.a. EDGAR GALVAN, pled guilty to or was found guilty of at least two of the following prior misdemeanor violations of Idaho Code Section 18-8004, within the previous ten years, to wit: Jerome County case number CR-2008-2819 and Twin Falls County case number CR-2010-10207, in violation of Idaho Code Sections 18-8004, 18-8005(6).

DATED this 25th day of November, 2014.


Jethelyn Harrington
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 26 day of Nov, 2014, I served a copy of the foregoing **Information**, thereof into the mail slot for **The Office of the Public Defender** located at the District Court Services Office and for delivery on the regular delivery route made every morning and afternoon to all Courthouse offices receiving mail from the Prosecutor's Office.



Elizabeth A. Vedvig
Legal Assistant

148
OFFICE OF THE
PUBLIC DEFENDER
TWIN FALLS COUNTY
Attorneys at Law
P. O. Box 126
Twin Falls, Idaho 83303
ISB# 7193

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 26 PM 3:53

BY _____ CLERK

 DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

* * * * *


| | | |
|----------------------|---|----------------------|
| STATE OF IDAHO, |) | |
| |) | |
| Plaintiff, |) | Case No. CR 14-11509 |
| |) | |
| vs. |) | |
| |) | NOTICE OF HEARING |
| EDGAR FARFAN-GALVAN, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

TO: GRANT LOEBS TWIN FALLS COUNTY PROSECUTORS OFFICE:

PLEASE TAKE NOTICE that on Wednesday, the 3rd day of December, 2014, at the hour of 10:00 a.m. or as soon thereafter as counsel can be heard, the undersigned will call for a MOTION TO DISMISS OR REMAND hearing, in the above-entitled matter, before the Honorable G. Richard Bevan.

DATED this 26th day of November, 2014.

TWIN FALLS COUNTY PUBLIC DEFENDER



Samuel S. Beus
Deputy Public Defender

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that I caused a true and correct copy of the foregoing
NOTICE OF HEARING to be properly delivered to the Twin Falls County Prosecutors Office,
on this 26 day of November, 2014.

Grant Loeb
Prosecuting Attorney

☒ Courthouse Mail

Betsy Brown
Betsy Brown
Legal Assistant

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 NOV 26 AM 10:10

BY _____
CLERK
DEPUTY

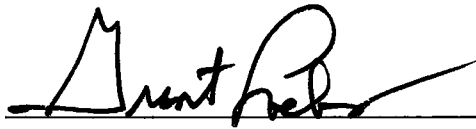
✓ GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, ID 83303
Phone: (208) 736-4020
Fax: (208) 736-4120

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|-------------------------------|---|-----------------------------|
| STATE OF IDAHO, |) | Case No. CR 14-11509 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | MOTION TO DISQUALIFY |
| |) | ALTERNATE JUDGE |
| EDGAR FARFAN-GALVAN, a.k.a |) | |
| EDGAR FARFAN, a.k.a. EDGAR G. |) | DOB: [REDACTED] |
| FARFAN-GALVAN, a.k.a. EDGAR |) | SSN: [REDACTED] |
| GALVAN FARFAN, a.k.a EDGAR |) | |
| GALVAN-FARFAN, a.k.a EDGAR |) | |
| EDGAR GALVAN, |) | |
| Defendant. |) | |

COMES NOW, the Twin Falls County Prosecuting Attorney's Office, by and through its Attorney of Record, Grant P. Loebs, Prosecuting Attorney, and moves to disqualify alternate Judge Robert J. Elgee in the above-entitled case. Pursuant to I.C.R. 25 this motion to disqualify is made without cause.

DATED this 25th day of November, 2014.



Grant P. Loebs
Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 26 day of Nov., 2014, I served a copy of the foregoing **Motion to Disqualify Alternate Judge**, thereof into the mail slot for **The Office of the Public Defender** located at the District Court Services Office and for delivery on the regular delivery route made every morning and afternoon to all Courthouse offices receiving mail from the Prosecutor's Office.


Elizabeth A. Vedvig
Legal Assistant

November 28, 2014 10:50 AM

By  Clerk
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301

STATE OF IDAHO,
Plaintiff.

vs. CASE NO: CR-2014-0011509

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

RE-SET
NOTICE OF HEARING

DOB: 
DL: 

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Arraignment Thursday, December 04, 2014 09:00 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, November 28, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

Private Counsel: Mailed _____ Box ☒
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loebis
Mailed _____ Box ☒

Dated: Friday, November 28, 2014
Kristina Glascock --Clerk of the District Court

By: 

Deputy Clerk

148

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 DEC -1 AM 10:09

BY _____
CLERK
DEPUTY

GRANT P. LOEBS
Prosecuting Attorney
for Twin Falls County
P.O. Box 126
Twin Falls, ID 83303
Phone: (208) 736-4020
Fax: (208) 736-4120

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|----------------------|---|------------------------------|
| STATE OF IDAHO, |) | Case No. CR 14-11509 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | STATE'S OBJECTION TO |
| |) | DEFENDANT'S MOTION TO |
| EDGAR FARFAN-GALVIN, |) | DISMISS AND/OR REMAND |
| |) | |
| Defendant. |) | |
| _____ |) | |

COMES NOW the Twin Falls County Prosecuting Attorney's Office, by and through its Attorney of Record Jethelyn Harrington, Deputy Prosecuting Attorney, and hereby objects to the defendant's Motion to Dismiss and/or Remand.

FACTS

On November 2, 2014, Idaho State Police Trooper Jason Lalonde responded to a property damage crash on State Highway 50 near milepost three. Once he arrived he saw an SUV on its roof on the north side of the highway. Trooper Lalonde also found that Kimberly Police Officers Rawlins and Arrington were already on the scene. The officers told Trooper Lalonde that they

had the admitted driver of the vehicle, the defendant, Edgar Farfan-Galvin in the rear of a Kimberly Police patrol vehicle. Although the temperature outside was only four degrees Mr. Farfan-Galvan was wearing only a t-shirt and one shoe. Officer Rawlins was able to find the defendant's other shoe and a sweatshirt for the defendant.

While speaking with the defendant Trooper Lalonde could smell the odor of an alcoholic beverage. He also noticed a reddening of the conjunctiva in the defendant's eyes. The defendant admitted to Trooper Lalonde that he had a couple of shots before going to the Pressbox Bar.

Trooper Lalonde asked the defendant to take the Standard Field Sobriety Tests which the defendant agreed to perform. The defendant showed five clues during the Horizontal Gaze Nystagmus. During the Walk and Turn the defendant stepped off-line, took too many steps both down the line and back, swayed and lost his balance and started before being instructed to do so. On the one leg stand the defendant swayed, put his foot down twice and stopped the test before being told to do so. Trooper Lalonde asked the defendant if he was intoxicated and he said "yeah". Trooper Lalonde placed the defendant under arrest for driving under the influence.

Trooper Lalonde then placed the defendant in the backseat of his patrol vehicle in order to begin the 15 minute waiting period for the LifeLoc FC20. After checking the defendant's mouth for foreign materials, playing him a recording of his ALS rights, and waiting the prerequisite 15 minutes the defendant blew into Trooper Lalonde's LifeLoc FC20 instrument. The defendant provided two samples into the instrument. The results of those two breath samples were .137/.128.

The defendant has had two prior misdemeanor DUIs within the last ten years. In the second of the two convictions, Twin Falls Case no. CR 10-10207, the defendant applied for but was denied the public defender (see State's Exhibits 1 and 2 attached) and chose to proceed *pro-*

se. In the 2010 case the defendant was pulled over by Twin Falls City Officer Asmir Kararic on September 5, 2010, for a broken headlight. In that case Officer Kararic determined the defendant was intoxicated, and the defendant later blew a .220/.209. There the defendant appeared before the clerk of the court on September 9, 2010, where he was informed of and signed an acknowledgement of rights form. (State's exhibit 3). This form specifically addressed the defendant's right to counsel. The defendant was also informed of the penalties for future violations of driving under the influence. (State's exhibit 4). That same day the defendant chose to waive his rights and to plead guilty by signing a written plea of guilty. (State's exhibit 5). He decided to plead guilty to the charges before he ever learned if the Court would appoint counsel to him. The defendant was sentenced by the honorable Thomas D. Kershaw on October 5, 2010.

In the first of his two priors, Jerome County case no. CR-2008-2819, the defendant was represented by Attorney P. McMillan. (State's exhibit 6). In that case the defendant was also informed of his right to counsel, along with all of his other constitutional rights. (State's Exhibit 7). The defendant was also informed of the penalties for subsequent DUI convictions. (State's Exhibit 8).

I. The Defendant's 2010 DUI conviction is constitutional.

For the last ten years, the Idaho Supreme Court has held that a Defendant can only attack a prior DUI conviction used for enhancement purposes if the Defendant's right to counsel in the prior conviction was violated. *State v. Weber*, 140 Idaho 89, 90 P.3d 314 (2004). The vast majority of Idaho Supreme Court's reasoning in *Weber* relies upon the United States Supreme Court ruling in *Custis v. United States*. *Custis v. United States*, 114 S.Ct. 1732, 128 L.Ed 517 (1994).

In making their decisions in both *Weber* and *Custis*, the Idaho and the United States

Supreme Courts relied on that pillar of Sixth Amendment case law in *Gideon v. Wainwright*. The holding of *Gideon*, of course, being that the Sixth Amendment of the United States Constitution requires that an indigent defendant in state-court proceedings have counsel appointed for him. *Gideon v. Wainwright*, 372 U.S. 335, 9 L.Ed2d 799 (1963). In *Weber*, the Idaho Supreme Court held that a prior conviction used for sentencing enhancement purposes cannot be extended beyond the right established in *Gideon*. *Weber*, 140 Idaho at 93, 90 P.3d at 318.

In the *Weber* case, the defendant sought to collaterally attack his prior DUI convictions being used for enhancement purposes based upon perceived violations of I.C.R. 11(c) and other constitutional standards used to determine if the pleas were knowing and voluntary. *Id.* at 91, 90 P.3d at 316. Using the rule cited above, the Idaho Supreme Court would not allow Mr. Weber to collaterally attack his prior DUI convictions. *Id.* at 93-94, 90 P.3d 318-319. Noting specifically that:

By challenging the previous conviction, the defendant is asking a district court “to deprive [the] [state-court judgment] of [its] normal force and effect in a proceeding that has as independent purpose other than to overturn the prior judgment. *These principles bear extra weight in cases in which the prior conviction, such as this one challenged by Custis, are based on guilty plea, because when a guilty plea is at issue, “the concern with finality served by the limitations on collateral attack has special force.”*

Id. at 93, 90 P.3d 318, *emphasis in the original*.

Never at any point in the 2010 DUI proceedings did the state or the Court violate Mr. Farfan-Galvin’s right to counsel. All the evidence of the proceedings as laid before this Court shows that the defendant was made aware of his right to counsel. This happened at least four times. He was made aware of this right in his notification of rights form (Exhibit 3), in his application and denial of the public defender (Exhibits 1 and 2),

most likely during the group reading of rights at sentencing, and specifically by Judge Kershaw during sentencing. *Sentencing Transcript*, at 2. Mr. Farfan-Galvin was specifically found by Judge Kershaw to have adequate discretionary income with which to hire an attorney. (Exhibit 2). Therefore, the defendant was not indigent. Any failure by Judge Kershaw in not informing this defendant of the perils of self-representation is a collateral attack falling outside that which is allowed under the federal constitution. See *Weber*, at 94, 90 P.3d at 319. Such an attack in effect argues that Mr. Farfan-Galvin's 2010 DUI guilty plea was not knowingly and intelligently made because any uncounseled plea is automatically unknowing and unintelligent. See *State v. Coby*, 128 Idaho 99, 101, 910 P.2d 771, 773 (Ct. App. 1994) The United States Supreme Court in *Custis* and the Idaho Supreme Court in *Weber* have specifically held that "an allegation that a guilty plea was not knowing and intelligent [is] not a constitutional violation rising to the level of a jurisdictional defect which warrant[s] a collateral attack on a prior conviction at sentencing." *Id.* at 95, 90 P.3d 320, emphasis added. Thus, the defendant's arguments that he should be allowed to collaterally attack his 2010 DUI plea because it was not knowing and intelligent are moot. The only means by which this defendant may collaterally attack his 2010 DUI conviction are for the complete denial of counsel as found in *Gideon v. Wainwright*. The records prove that this did not happen. At no time was this defendant ever denied the right to counsel.

II. All other arguments made by the defendant concerning collateral attack are moot.

In his brief, the defendant makes other claims that his 2010 DUI guilty plea should be set aside as being unconstitutional. These claims are that the court should have made some inquiry


as to the defendant's ability to understand the proceedings, his age, education and familiarity with the English language and the complexity of the crime involved. As stated above, these remaining claims are moot. *State v. Weber* clearly holds that none of these arguments "rise to the level of a jurisdictional defect resulting from the failure to appoint counsel at all." *Weber*, 140 Idaho at 93, 90 P.3d at 318. Therefore, the arguments cannot be used for collateral attack on the 2010 DUI.

CONCLUSION

The defendant's collateral attack on his 2010 DUI guilty plea should be disallowed because the defendant has not shown that his right to counsel was violated. The only way to prove that a prior DUI conviction used for enhancement at sentencing is unconstitutional is to prove that a defendant was denied the right to counsel. The records from the defendant's 2010 DUI prove otherwise.

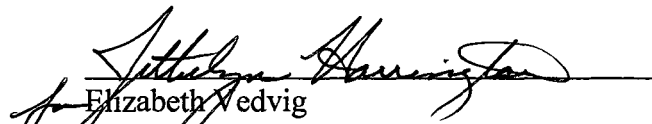
Based upon these arguments, the defendant motion for dismissal or remand should be DENIED in its entirety, and this case should proceed to trial. The State requests oral argument.

Dated his 1st day of December, 2014.


Jethelyn Harrington
Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2014, I served a copy of the foregoing **STATE'S OBJECTION TO THE DEFENDANT'S MOTION TO DISMISS AND/OR REMAND** thereof into the mail slot for **THE OFFICE OF THE PUBLIC DEFENDER** located at the District Court Services Office and for delivery on the regular delivery route made every morning and afternoon to all Courthouse offices receiving mail from the Prosecutor's Office. I also served a bench copy directly to the Honorable G. Richard Bevan's chambers.


Elizabeth Vedvig
Felony Legal Assistant

Twin Falls County Public Defender Application

SEP 14 2010 12:38

Every question on this application must be answered completely and you **MUST PROVIDE VERIFICATION OF INCOME** by way of pay stub, SSI-statement, or by whatever means you obtain income and/or pay your expenses. Failure to do so may result in your application being denied and/or returned to you for completion.

By _____ Clerk
Deputy Clerk

Name Edgar farfan Galvan Case No. CL-2010-10207
Address 160 Monroe Home phone No. 208) 420-2572
City, State, Zip Twin Falls ID, 83301 Message phone No. 208) 440-2913
Age 23 Marital status _____ Last 4 Digits of Social Security No. [REDACTED]

People who live in your house: list the names of dependents and/or people which you share income/expenses

| Name | Relationship | Age | Employer |
|--------------------|--------------|-----|----------------------|
| Edgar farfan | self | 23 | Standlee Hay Company |
| Janet Ceballos | Girl friend | 22 | Fred Meyer |
| Ierin Edgar farfan | Son | 3 | N/A |
| | | | |
| | | | |

Monthly Income:

All household income including income from SSI, Social Security, AFDC, Child Support, trust funds, food stamps, unemployment, etc. If unemployed, are you registered with job service? _____

| Net Income | Source - (Ex: self, spouse) | Employer |
|-------------|-----------------------------|----------------------------------|
| 2,800 mthly | self, spouse | Standlee Hay Company, Fred Meyer |
| | | |
| | | |

Monthly Expenses:

| | | |
|-----------------------------|-------------------------|----------------------------------|
| Rent \$ <u>525.00</u> | Food \$ <u>150.00</u> | Car Payment \$ <u>0.00</u> |
| Water \$ <u>50.00</u> | Property Taxes \$ _____ | Gasoline \$ <u>60.00</u> |
| Electricity \$ <u>40.00</u> | Cable \$ <u>35.00</u> | Veh. Maintenance \$ <u>80.00</u> |
| Gas Heat \$ <u>18.00</u> | | Veh. Insurance \$ <u>0.00</u> |
| Phone \$ <u>20.00</u> | | Home Insurance \$ <u>0.00</u> |

Non-Food Item:

- _____
- _____
- _____

Total Owed:

- _____
- _____
- _____

Charge/Credit Cards:

- _____
- _____
- _____

Total Owed:

- _____
- _____
- _____

Other Item:

1. hospital
2. [unclear]
3. [unclear]

Total Owed:

1. 600.00
2. [unclear]
3. [unclear]

Min. Mon. Pymt. Required:

- _____
- _____
- _____

Min. Mon. Pymt. Required:

- _____
- _____
- _____

Min. Mon. Pymt. Required:

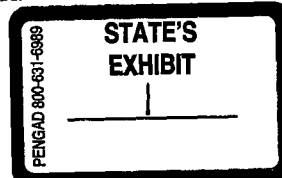
- 50.00 month
- 100.00 month
- 120.00 month

Monthly Child Support Payments:

I am required to pay monthly child support in the amount of \$ 0

I am now paying \$ 0 each month for child support.

My payments are current. ☐ Yes ☐ No



State of Idaho 11/28/2014
County of Twin Falls, ss.

I hereby certify the foregoing to be a full, true and correct copy of the original on file in the above entitled action. Pg. 1 of 1

KRISTINA GLASCOCK
CLERK OF THE DISTRICT COURT

By [Signature] 75
COURT SERVICES

DISTRICT COURT
Fifth Judicial District
County of Twin Falls, State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

MAGISTRATE DIVISION

September 15, 2010

SEP 15 2010

By 3:26pm
Clerk
Deputy Clerk

Edgar Farfan-Galvan
160 Monroe
Twin Falls, ID 83301

RE: PUBLIC DEFENDER APPLICATION

CASE# CR 2010-10207:

DEAR Mr. Farfan-Galvan:

This letter is to inform you that the Judge denied your application for a
Public Defender.

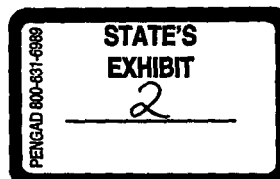
If you have any questions please call Erica or Mary Jo at 736-4189.

Sincerely,

Erica

NOV 28 2014

11/28/2014
State of Idaho
County of Twin Falls, ss.
I hereby certify the foregoing to be a full, true
and correct copy of the original on file in the
above entitled action. Pg. 1 of 1
KRISTINA GLASCOCK
CLERK OF THE DISTRICT COURT
By Julia B.
COURT SERVICES



RECEIVED
TWIN FALLS COUNTY
FILED

2010 SEP -9 PM 2:14

BY _____
CLERK

**FIFTH JUDICIAL DISTRICT COURT, STATE OF IDAHO
IN AND FOR THE COUNTY OF TWIN FALLS
427 SHOSHONE STREET NORTH
TWIN FALLS, IDAHO 83303-0126**

STATE OF IDAHO
Plaintiff,

vs.

Edgar Farfan-Galvan
160 Monroe St.
Twin Falls, ID 83301
Defendant.

DOB: [REDACTED]
DL: [REDACTED]

Case No: CR-2010-0010207

**NOTIFICATION OF PENALTIES
FOR FUTURE VIOLATIONS OF
DRIVING UNDER THE INFLUENCE**

YOU ARE HEREBY NOTIFIED that if you plead guilty to or are found guilty of driving under the influence in the future, the penalties will be as follows:

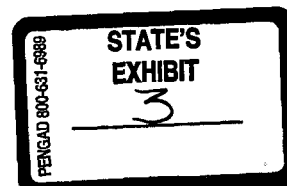
A SECOND DUI VIOLATION within ten (10) years, including withheld judgments, is a **MISDEMEANOR** and you:

1. Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, the first forty-eight (48) hours of which must be consecutive, and five days of which must be served in jail, and may be sentenced to not more than one (1) year; and
2. May be fined up to Two Thousand Dollars (\$2,000.00); and
3. Shall surrender your driver's license to the court; and
4. Shall have your driving privileges suspended for a minimum one (1) year during which absolutely no driving privileges of any kind may be granted; and
5. Shall drive only a motor vehicle equipped with a functioning ignition interlock system, following the (1) year license suspension period.

TWO DUI VIOLATIONS when both violations involve an alcohol concentration of 0.20 or above, within five (5) years; **A THIRD DUI VIOLATION** within ten (10) years; or a **SUBSEQUENT DUI VIOLATION** with a previous felony DUI or aggravated DUI within fifteen (15) years; including withheld judgments, is a **FELONY** and you:

2. (a): Shall be sentenced to the State Board of Corrections for not more than five (5) years for **TWO DUI VIOLATIONS** involving an alcohol concentration of 0.20 or above. But if the Court imposes a jail sentence instead of the state penitentiary, it shall be for a minimum period of not less than thirty (30) days: or

NOTIFICATION OF PENALTIES FOR VIOLATION OF
DRIVING UNDER THE INFLUENCE



3
7/07

(b): Shall be sentenced to the State Board of Corrections for not more than ten (10) years for a **THIRD DUI VIOLATION** within ten (10) years or a **SUBSEQUENT DUI VIOLATION** with a previous felony DUI or aggravated DUI within fifteen (15) years. But if the Court imposes a jail sentence instead of the state penitentiary, it shall be for a minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail: and

2. May be fined up to Five Thousand Dollars (\$5,000.00); and
3. Shall surrender your driver's license to the court; and
4. Shall have your driving privileges suspended for at least one (1) year and not more than five (5) years following your release from imprisonment during which time you shall have absolutely no driving privileges; and
5. Shall drive only a motor vehicle equipped with a functioning ignition interlock system, following the (1) year license suspension period.

I HAVE READ THIS ENTIRE DOCUMENT; I HAVE HAD IT EXPLAINED TO ME; AND I HAVE RECEIVED A COPY.

Dated: 09/09/10

Edgar Farkas
Defendant

NOTIFICATION OF PENALTIES FOR VIOLATION OF
DRIVING UNDER THE INFLUENCE

State of Idaho 11-05-14
County of Twin Falls, ss.
I hereby certify the foregoing to be a full, true
and correct copy of the original on file in the
above entitled action. page 2 of 2
KRISTINA GLASCOCK
CLERK OF THE DISTRICT COURT
7/37
By Selena Garcia
COURT SERVICES 78

THE JUDICIAL DISTRICT
TWIN FALLS COUNTY
FILED

2010 SEP -9 PM 2:14

BY _____ CLERK

_____ PR _____

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Farfan-Galvan

Defendant.

CASE NO. CR 10-10207

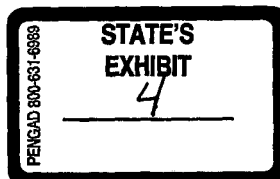
PLEA OF GUILTY

1. Name: Edgar Farfan
2. Last school grade completed: Valley High School 10th
3. Do you read and understand English? yes
4. Have you ever been treated for any mental illness? no
5. Are you now under the influence of alcohol, drugs or medication that affects your ability to understand and answer questions? no
6. What are you charged with? DUI - 2nd off
7. What is the maximum sentence? Jail: 10-365 days Fine: 2,000 Lic. Susp. 1 yr. mandatory
8. Do you realize if you plead guilty, you give up or waive your rights to remain silent, have a jury trial and confront witnesses? yes
9. Has anyone made threats or promises to get you to plead guilty? no
10. Do you understand if you are on parole or probation, your guilty plea may violate your probation or parole? yes
11. Do you understand the judge does not have to follow recommendations made by your attorney or the prosecutor and you cannot change your guilty plea if recommendations are not followed? yes
12. Do you understand if you plead guilty and you commit crimes in the future, this conviction would be considered in the future case and could cause a more severe penalty in the future case? yes
13. Is there anything you do not understand? no
14. Do you admit you are guilty as charged? yes

Date: 09/07/10

My signature: Edgar Farfan

PLEA OF GUILTY--1



State of Idaho 11-05-14

County of Twin Falls, ss.

I hereby certify the foregoing to be a full, true
and correct copy of the original on file in the
above entitled action. page 1 of 1

KRISTINA GLASCOCK

CLERK OF THE DISTRICT COURT

By Selena Garcia
COURT SERVICES

FIFTH JUDICIAL DISTRICT, STATE OF IDAHO, COUNTY OF TWIN FALLS
427 SHOSHONE ST - P.O. BOX 126
TWIN FALLS, IDAHO 83303-0126

STATE OF IDAHO VS
EDGAR FAREAN GALVAN
160 MONROE ST.
TWIN FALLS ID 83301

DL# [REDACTED]
DOE AGENCY: TWIN FALLS CITY POLICE
CASE# CR-2010-0010207 CITATION# 174802
CHARGE: IIS-8004(IKA) MZ. Driving Under the Influence (Second Offense)
AMENDED: -

JUDGMENT
FILED 10/5/10 at 11:10 AM

CLERK OF THE DISTRICT COURT
BY TB, DEPUTY

☒ Defendant has been advised of the nature of the charges against him/her, his/her rights pursuant to I.M.C.R. 5(f), 6(c), and I.C.R. 11, and was told the consequences of the plea, including the punishments possible.

☒ Defendant knowingly, voluntarily, and intelligently waived the following rights: right against compulsory self-incrimination, right to confront and cross-examine witnesses, right to a jury trial and any defenses to the charge(s).

The defendant appeared ☒ with ☐ without counsel to be sentenced, having ☒ pled ☐ been found guilty. Therefore, defendant is ☒ adjudged guilty ☐ granted a withheld judgment, ☐ subject to the following terms:

MONIES ORDERED PAID

Fine \$ 1000 Costs \$ 18250 Suspended \$ 700 Public Defender \$ To be paid ☐ today ☒ by: 60 days
☐ Community Service hours by
☐ Restitution

INCARCERATION ORDERED Jail 180 days, Suspended 170 days, with ☐ credit for time served.

Defendant will ☒ serve jail time 5 weekends starting Pri Oct 8 5:00 p.m. ☐ house arrest ☐ work detail in lieu of jail time

DRIVING PRIVILEGES SUSPENDED 365 days suspension, first days absolute commencing

Restricted Permit Authorized ☐ Yes ☒ No Restrictions

PROBATION ORDERED FOR 24 months on the following conditions:

- ☒ First 24 months probation supervised; ☐ then supervised in discretion of probation officer.
- ☒ Reimburse this county \$ 50 per month in advance for the cost of probation services.
- ☒ Violate no federal, state, or local laws, except traffic infractions.
- ☒ Maintain liability insurance on any vehicle that you drive.
- ☒ Do not operate a motor vehicle with any alcohol in your blood.
- ☒ Do not consume alcoholic beverages; ☒ illegal substances; ☒ have them in your possession; or ☒ be where they are present.
- ☒ Submit to alcohol/drug test requested of you by a peace officer, probation officer, or drug/alcohol counselor.
- ☒ Successfully attend court alcohol school at your expense on the next date it is available.
- ☒ Complete programs as required by probation office.
- ☒ Notify the court, in writing, of any change of address within 10 days of the change.
- ☒ Pay all fines, costs, restitution and reimbursements.
- ☒ Comply with standard conditions of probation.

☒ equal + follow rec
☒ 1 year + interloc
☐
☐

THE SUSPENSION OF PENALTIES IS SUBJECT TO YOUR COMPLIANCE WITH ALL TERMS HEREIN

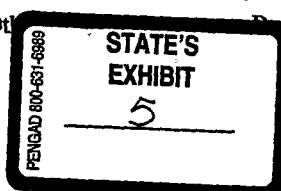
Defendant is notified of the right to appeal this judgment within 42 days of today and may apply for a public defender to assist in the appeal. By signing this judgment the defendant acknowledges and accepts the terms and conditions of probation.

Accepted by Defendant
Edgar F. Galvan

Date 10/5/10 Judge # 266

Copies To: Def. ☒ Def. Atty. ☒ Pros. ☒ Ot ☐
☒ Drivers Services ☐ Driver's License attached

Deputy Clerk TB



State of Idaho 11-05-14
County of Twin Falls, ss.
I hereby certify the foregoing to be a full, true
and correct copy of the original on file in the
above entitled action. page 1 of 1

KRISTINA GLASCOCK
CLERK OF THE DISTRICT COURT

By Selena Garcia
COURT SERVICES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF JEROME COUNTY

JUDGMENT OF CONVICTION

WITHHELD JUDGMENT

STATE OF IDAHO vs.

Edgar FARRAN - GALVAT

DISTRICT COURT
FIFTH JUDICIAL DISTRICT
JEROME COUNTY, IDAHO

HOME PHONE

(208) 829-4028

MESSAGE PHONE

(208) 320-4184

SS#

DOB

9-11-1987

Michelle Emerson

WT

116 lb

HAIR

BLK

EYE

BRN

DL#

V641A143K

STATE

ID

CASE NO.

CN-2008-2815

DEFENDANT having been charged with:

Count 1:

D.U.I.

BY

DEPUTY CLERK

Count 2:

OPEN CONTAINER - demand

Count 3:

MINOR CONSUMPTION - demand

Count 4:

DEFENDANT having been advised of all rights and penalties per ICR 5, 11, IMCR 5 (f).

DEFENDANT WAS:

☒ Present☐ Not Present☒ Was Represented By

P. McMillan

Defendant Waived:

☒ Right Against Self-Incrimination☒ Jury Trial

Plea entered 8/4/08

Right To:

☒ Confront & Cross-Examine Accuser☐ Counsel☐ All Defenses

COURT ENTERS JUDGMENT AFTER:

☒ Voluntary Guilty Plea☐ Trial: Found Guilty☐ WITHHELD JUDGMENT - Expires:☐ ORDERED DEFENDANT'S DRIVING PRIVILEGES SUSPENDED

180 days beginning

☐ Consecutive to any Current Suspension☐ With Restricted License☐ Absolute Suspension☒ Concurrent with ALS☐ DEFENDANT ORDERED TO PAY CLERK: Time to Pay:

by 10/18/08 - 200.00

and by the 11/18/08 day of each month until paid in full.

Count 1

Fine/Penalty \$

1000.00

w/\$

800.00

suspended + CT COSTS \$

90.50

= \$

290.50

Count 2

Fine/Penalty \$

w/\$

suspended + CT COSTS \$

= \$

Count 3

Fine/Penalty \$

w/\$

suspended + CT COSTS \$

= \$

Count 4

Fine/Penalty \$

w/\$

suspended + CT COSTS \$

= \$

☒ Reimburse Public Defender \$

100.00

Restitution \$

Probation Documentation Fee \$

50.00

☐ Restitution Payments concurrent with time to pay on fines, costs and other fees.☐ DEFENDANT IS ORDERED TO BE INCARCERATED IN☐ County Jail☐ Juvenile Detention Center

Count 1:

180

days w/

149

Suspended (

30

Discretionary Time) — Credit

1

Total =

1

Count 2:

days w/

Suspended (

Discretionary Time) — Credit

Total =

Count 3:

days w/

Suspended (

Discretionary Time) — Credit

Total =

Count 4:

days w/

Suspended (

Discretionary Time) — Credit

Total =

☐ PROBATION ORDERED/CONDITIONS: Probation Expires:

9/22/09

☒ Supervised☐ Unsupervised☐ Enroll/Complete treatment program(s) marked on Judgment Supplement☒ Report to Probation Officer within five (5) days☐ Comply with all terms and/or Conditions of Probation Agreement☐ Use Interlock Device☒ Notify Court of Change of Address☐ Refuse no evidentiary test for drugs/alcohol (BAC)☒ Commit no crimes☒ Pay all fines, costs, restitution & reimbursements☐ Do not drive a vehicle unless, validly licensed and validly insured

Other:

Complete 12 hours of alcohol counseling - attend recovery programs w/ 90 days

☐ Pay Restitution — State to provide restitution figure within thirty (30) days of date of Judgment of Conviction☐ Defendant accepted all terms and conditions of probation and received a copy of this form and Judgment Supplement (if applicable)

DEFENDANT:

Edgar F. Farran

Date of Judgment/Order:

9/22/08

JUDGE

NUMBER

PENGAD 800-631-6888

STATE'S
EXHIBIT

6

Follows all rec'd. 9/26/08 930 MW

THIS JUDGEMENT SUPPLEMENT IS INCORPORATED BY REFERENCE AND
HEREBY MADE A PART OF THE JUDGEMENT ENTERED IN THIS CASE

DISTRICT COURT
FIFTH JUDICIAL DISTRICT
JEROME COUNTY, IDAHO

Defendant Edgar Farfan - Malra Case No. CR-2008-2819

Address _____ Charge 52 D.U.I.

Phone _____ Ref. Date _____

Judge Thomas Borreha Clerk/Agency nnineda

BY _____

The defendant shall make immediate contact with the following marked programs within 48 hours, pay any required fee, arrive at each class on time and fully cooperate with program sponsors.

**FAILURE TO COMPLETE THESE PROGRAMS AS ORDERED MAY RESULT IN THE
ISSUANCE OF A WARRANT FOR YOUR ARREST FOR A VIOLATION OF PROBATION**

☐ **VA Medical Center** – 338-7208
500 West Fort, Boise, Idaho

☐ **Port of Hope** – 734-5180
Twin Falls, Idaho

☐ **Court Referral Services** – 1-800-452-5050

☐ **Relapse Program** – 734-1330

☐ DUI School

☐ Victim Panel

☐ **Anger Management Program** – 734-1330

☐ Alcohol/Behavior/Anger Management

☐ Other _____

☐ **Jerome County Jail/Work Release Center**

☐ **Jerome County Juvenile Detention**

☐ Defendant to immediately report to jail to begin his sentence.

TOTAL DAYS TO SERVE = 1

☐ Work Release Program

☐ Defendant is hereby remanded to the custody of the Jerome County Sheriff and must report to the Jerome County Jail within 24 hours, Monday – Friday, between 8:00 a.m. – 5:00 p.m. only.

☐ All options offered by County Sheriff are available to defendant.

☐ Concurrent to any other cases.

☐ No options available. Incarceration must be fully completed.

☐ Consecutive to any other case.

☐ [JUVENILE] Defendant to immediately contact Sr. In-Take Officer to arrange commencement of sentence. Detention to be served at discretion of Sr. In-Take Officer, but no later than 45 days from date of judgement.

☐ Other Def is eligible

for Sheriff's Work Program

State of Idaho
County of Jerome

I hereby certify the foregoing to be a full, true and correct
copy of the original on file in the above entitled action.

Michelle Emerson

Clerk of the District Court

Speterson

Deputy

11/6/14

Date



DISTRICT COURT
IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF JEROME

STATE OF IDAHO,

2008 JUN 17 PM 1 01

CASE NO.

vs.

Michelle Emerson

BY

J. Wilber
DEPUTY CLERK

STATEMENT OF DEFENDANT'S
RIGHTS IN MISDEMEANOR CASES

Defendant's name

1. You have the right to remain silent; any statement you make can be used against you. You cannot be compelled to incriminate yourself.

2. You have the right to bail. The amount and type of bail or release on your own recognizance is determined by the judge after considering factors provided by law.

3. You have the right to have an attorney represent you at all stages of these proceedings; if you are poor and unable to afford counsel, and the Court determines that you may be subject to a jail sentence if convicted, you may apply to the Court for the appointment of an attorney to represent you at public expense.

4. You have the right to a jury trial, or you may waive jury and have the matter tried before the Court. At the trial, the prosecution has to prove your guilt beyond a reasonable doubt. Any guilty verdict by a jury must be unanimous.

5. You have the right to confront or ask questions of any witness who testifies against you and to compel the attendance of witnesses on your own behalf without expense to you.

6. You may enter a plea of guilty or not guilty at this time or request a continuance in order to consult your attorney as to the plea.

7. If you plead GUILTY, you waive or give up all of the above rights and you waive or give up any defenses you may have to the complaint against you.

8. You have the right to appeal any conviction or sentence to the District Court. The appeal must be filed within forty-two (42) days after the judgment of conviction is entered.

9. If you plead NOT GUILTY, the Court will set a trial date and you or your attorney will be notified of that date.

10. If you plead GUILTY, the Court will ordinarily sentence you immediately unless you request a delay. At the sentencing, you will be given the opportunity to make a statement by way of explanation or mitigation.

11. The maximum penalty for a criminal misdemeanor is a fine up to one thousand dollars (\$1000) and up to six (6) months in jail. There are some exceptions, and if you are subject to a greater penalty, the Court will advise you.

12. If you plead guilty or are found guilty of a traffic offense, a record of the conviction will be sent to the Department of Transportation and becomes a part of your driving record. There is a traffic violation point system and the accumulation of points may lead to a suspension of your driving privileges if the Court has not already done so.

13. In addition to any fine imposed by the Court upon a conviction, there are costs of the State of Idaho. I hereby certify the foregoing to be a full, true and correct copy of the original on file in the above entitled action.

I acknowledge that I have read this statement and fully understand its contents.

Dated this 16 day of June, 2008.

Defendant:

Edgar Farfan - Balvan

PENGAD 800-631-6988

STATE'S
EXHIBIT
7

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF JEROME

233 WEST MAIN STREET

JEROME, IDAHO 83338

2008 JUN 17 PM 1 01

STATE OF IDAHO
Plaintiff,

vs.

Edgar Farfan-Galvan
2459 Hwy 75
Hazelton, ID 83335
Defendant.

DOB: [REDACTED]
DL or SSN: [REDACTED]

Michelle Emerson
BY J. Wilder

Case No: CR-2008-0002819

NOTIFICATION OF PENALTIES FOR
SUBSEQUENT VIOLATION OF
DRIVING UNDER THE INFLUENCE

YOU ARE HEREBY NOTIFIED that if you plead guilty to or are found guilty of driving under the influence in the future, the penalties will be as follows:

A SECOND DUI VIOLATION within ten (10) years, including withheld judgments, is a **MISDEMEANOR** and you:

1. Shall be sentenced to jail for a mandatory minimum period of not less than ten (10) days, the first forty-eight (48) hours of which must be consecutive, and five days of which must be served in jail, and may be sentenced to not more than one (1) year; and
2. May be fined up to Two Thousand Dollars (\$2,000.00); and
3. Shall surrender your driver's license to the court; and
4. Shall have your driving privileges suspended for a minimum one (1) year during which absolutely no driving privileges of any kind may be granted; and
5. Shall drive only a motor vehicle equipped with a functioning ignition interlock system, following the (1) year license suspension period.

TWO DUI VIOLATIONS when both violations involve an alcohol concentration of 0.20 or above, within five (5) years; **A THIRD DUI VIOLATION** within ten (10) years; or a **SUBSEQUENT DUI VIOLATION** with a previous felony DUI or aggravated DUI within fifteen (15) years; including withheld judgments, is a **FELONY** and you:

2. (a): Shall be sentenced to the State Board of Corrections for not more than five (5) years for **TWO DUI VIOLATIONS** involving an alcohol concentration of 0.20 or above. But if the Court imposes a jail sentence instead of the state penitentiary, it shall be for a minimum period of not less than thirty (30) days; or
(b): Shall be sentenced to the State Board of Corrections for not more than ten (10) years for a **THIRD DUI VIOLATION** within ten (10) years or a **SUBSEQUENT DUI VIOLATION** with a previous felony DUI or aggravated DUI within fifteen (15) years. But if the Court imposes a jail sentence instead of the state penitentiary, it shall be for a minimum period of not less than thirty (30) days, the first forty-eight (48) hours of which must be consecutive, and ten (10) days of which must be served in jail; and
2. May be fined up to Five Thousand Dollars (\$5,000.00); and
3. Shall surrender your driver's license to the court; and
4. Shall have your driving privileges suspended for at least one (1) year and not more than five (5) years following your release from imprisonment during which time you shall have absolutely no driving privileges; and
5. Shall drive only a motor vehicle equipped with a functioning ignition interlock system, following the (1) year license suspension period.

I HAVE READ THIS ENTIRE DOCUMENT; I HAVE HAD IT EXPLAINED TO ME; AND I HAVE RECEIVED A COPY.

Dated: June 16 2008



Edgar Farfan
Defendant

State of Idaho } ss
County of Jerome
I hereby certify the foregoing to be a full, true and correct
copy of the original on file in the above captioned case.

Clerk of the District Court
Spencer
11/6/14 Deputy
Date



IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
MAGISTRATE DIVISION

STATE OF IDAHO,

Plaintiff,

vs.

Edgar Farfan-Galvan

Defendant.

CASE NO. CR-10-10207

NOTIFICATION OF RIGHTS
MISDEMEANOR

The purpose of this initial appearance is to advise you of your rights.

E.F. If you do not speak or understand the English language, or if you have a physical handicap which prevents you from fully hearing or speaking the English language, then the court will appoint a qualified interpreter to interpret the proceedings.

E.F. You have the right to be represented by an attorney at all times. If you want an attorney, but cannot afford to pay for one, the court will, in appropriate cases, appoint one to help you. You may be ordered to reimburse Twin Falls County for the cost of your defense.

E.F. You have the right to remain silent and not incriminate yourself. This means you are not required to make a statement and any statement you make could be used against you.

E.F. While incarcerated, you have the right to communicate with your counsel and immediate family, and reasonable means will be provided for you to do so.

E.F. You have the right to bail.

E.F. If you plead not guilty, you can have a trial before either a judge or a jury of six persons. At the trial, you have the right to confront your accusers and you can cross-examine all witnesses who testify against you.

E.F. At the trial, you may present evidence on your behalf and testify yourself if you wish. However, the state cannot compel you to testify at the trial against your will. This is known as the right against compulsory self-incrimination.

E.F. If you wish to have witnesses required to attend your trial, you can obtain subpoenas from the clerk of the court.

E.F. If you plead guilty, you waive your right to a trial, your right to remain silent, your right against compulsory self-incrimination and your right to confront witnesses against you. You also give up any legal defenses you might have to the charge. If you wish to make a statement at the time of your sentencing, you may do so. Should you be sentenced on multiple counts, the court could order the sentences imposed be served consecutively rather than concurrently. Further, the court is not obliged to follow the sentencing recommendations of the lawyers and could sentence you to the maximum penalties provided by law.

E.F. If appropriate, the court at sentencing can require you to reimburse the victim(s) of your crime(s). Further, you may be required by statute to reimburse the state for certain costs of the investigation and prosecution.

E.F. If you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship.

E.F. You can appeal the court's sentence by filing a timely Notice of Appeal.

Acknowledgment of Rights

I have read this entire document and I understand it.

Date

Defendant's Signature

NOTIFICATION OF RIGHTS - MISDEMEANOR

PENGAD 800-831-6989

STATE'S
EXHIBIT

3A
87

DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC - 3 2014 11:02 am

By Clerk
 Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
DISTRICT COURT

COURT MINUTES

CR-2014-0011509

State of Idaho vs. Edgar Farfan-Galvan

Hearing type: Motion to Dismiss or Remand

Hearing date: 12/3/2014

Time: 10:00 am

Courtroom: 1

Judge: G. Richard Bevan

Court reporter: Virginia Bailey

Minutes Clerk: Shelley Bartlett

Defense Attorney: Sam Beus

Prosecutor: Jethelyn Harrington

9:56 Court called the case and reviewed the file.

9:59 Mr. Beus gave argument.

10:02 Ms. Harrington gave argument.

10:07 Mr. Beus gave argument.

10:18 Court inquired of Mr. Beus.

10:21 Court will take the matter under advisement and issue a written opinion.

DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DEC - 4 2014 11:00 am

JUDGE BEVAN
CLERK S. BARTLETT
REPORTER VIRGINIA BAILEY
COURTROOM 1

By SB Clerk
CASE # CR-2014-0011509 Deputy Clerk
DATE 12/4/2014
TIME 09:00 AM
CD 10:08

STATE OF IDAHO,
VS.

EDGAR FARFAN-GALVAN

☒ DEFENDANT IN CUSTODY

CHARGES: Driving Under the Influence-(Third or Subsequent Offense)

☒ ARRAIGNMENT ☐ STATUS ☐ ENTRY OF PLEA ☐ BOND ☐ CHANGE OF PLEA

APPEARANCES:

☒ Defendant Present ☒ Prosecutor Stan Holloway
☒ Def. Counsel Sam Bous ☐ Other _____

PROCEEDINGS AND ADVISEMENT OF RIGHTS:

☒ Defendant is informed of the charges against him/her and all legal rights including the right to representation
☒ Defendant is advised of the effect of a guilty plea and the maximum penalties
☒ Defendant indicated that he/she understands rights and penalties
☒ Waived reading of the "Information" ☒ Name verified ☒ Public Defender is confirmed/appointed

☐ ENTRY OF NOT GUILTY PLEA: ☐ By defendant ☐ By the Court

State's Attorney: _____
of days for trial _____ Pre-Trial _____ Jury Trial _____
Discovery Cutoff _____ Status Hearing _____

☐ ENTRY OF GUILTY PLEA: ☐ Defendant duly sworn in and questioned by the Court

Charge Amended to _____ Pled to _____
Counts to be Dismissed _____

☐ Enters plea knowingly, freely and voluntarily ☐ Plea accepted and adjudged guilty ☐ Plea/Offer Filed
Sentencing Date _____

☐ Presentence Report ordered ☐ 19-2524 Substance Abuse Eval ☐ 19-2524 Mental Health Eval
☐ Updated PSR ☐ Psychosexual Eval ☐ Domestic Violence Eval ☐ Other Eval _____
☐ Drug Court recommended Status Date _____

BOND HEARING: ☐ Counsel addressed the Court

☐ Released on own recognizance ☐ Bond remains as set ☐ Bond re-set to _____
Conditions of Release: ☐ Court Compliance ☐ Curfew of _____ ☐ Remain on Probation
☐ Reside at _____ ☐ Random UAs per week _____

Other: Delay to 12-15-14 @ 11:00 am

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2014 DEC -4 PM 3:55

CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff,

vs.

EDGAR FARFAN-GALVAN, a.k.a.
EDGAR FARFAN, a.k.a. EDGAR G.
FARFAN-GALVAN, a.k.a. EDGAR
GALVAN FARFAN, a.k.a. EDGAR
GALVAN-FARFAN, a.k.a. EDGAR
GALVAN,

Defendant.

Case No. CR 2014-11509

**MEMORANDUM AND
ORDER RE: MOTION TO
DISMISS OR REMAND**

This matter is before the court on the defendant's Motion to Dismiss or Remand, filed on 11/25/14. A hearing on the motion was held on 12/03/14. At the hearing, Jethelyn Harrington represented the State; the defendant, Edgar Farfan-Galvan, and his counsel, Sam Beus, were also present. After reviewing the briefs, hearing oral

arguments, and researching the applicable law, the defendant's Motion to Dismiss or Remand is DENIED.

I. BACKGROUND

On 11/02/14, Edgar Farfan-Galvan ("Galvan") was arrested for felony driving under the influence (two priors within the last ten years). On 11/25/14, Galvan filed a Motion to Dismiss or Remand, claiming that one of the prior DUI convictions being used to enhance the current case to felony status was entered in violation of his right to counsel under the United States and Idaho Constitutions.¹ Galvan argues that because this prior conviction was invalid, his current case should be either dismissed or remanded to magistrate court as a misdemeanor DUI. The State filed an Information on 11/26/14, charging Galvan with DUI in violation of I.C. §§ 18-8004 and 18-8005(6). Additionally, on 12/01/14, the State filed an objection to Galvan's motion and a hearing was held on 12/03/14.

II. ANALYSIS

A. Galvan May Not Collaterally Attack His 2010 Misdemeanor DUI Conviction in His Current Felony DUI Case (CR-2014-11509).

Galvan seeks to collaterally attack his 2010 conviction for misdemeanor DUI, thereby precluding the State from charging the instant case (CR-2014-11509) as a felony DUI. Galvan claims that he was denied the right to counsel in CR-2010-10207 and that, consequently, that conviction cannot stand. Therefore, his argument continues, the

¹ The particular conviction being collaterally attacked is Twin Falls County Case No. CR-2010-10207.

felony DUI charge before this court should be dismissed or remanded as a misdemeanor DUI.

Idaho's appellate courts have expressed great hesitancy in allowing defendants to bring collateral attacks on the validity/constitutionality of prior DUI convictions being offered to prove felony DUI. *See, e.g., State v. Weber*, 140 Idaho 89, 90 P.3d 314 (2004); *State v. Schwab*, 153 Idaho 325, 281 P.3d 1103 (Ct. App. 2012).² Therefore, Idaho courts have limited the circumstances under which a defendant may do so to those where (1) such an attack is provided by statute,³ or (2) such attack is a constitutional one based on a lack of counsel. *Weber*, 140 Idaho at 96, 90 P.3d at 321.

The *Weber* Court espoused two considerations in support of this limitation. First, the Court relied on ease of administration. The Court explained that while the failure to appoint counsel at all will generally appear from the judgment roll itself, or from an accompanying minute order, the determination of other constitutional claims such as ineffective assistance of counsel or *failure to assure that a guilty plea was voluntary* would require sentencing courts "to rummage through frequently nonexistent or difficult to obtain transcripts or records." *Id.* at 93, 90 P.3d at 318 (emphasis in original).

Secondly, the Court relied on an interest in promoting the finality of judgments. The Court explained that by challenging a prior conviction, the defendant is asking a district court to deprive a state court judgment of its normal force and effect in a

² This hesitancy is shared by the United States Supreme Court. *Custis v. United States*, 511 U.S. 485, 114 S.Ct. 1732 (1994).

³ Galvan has made no statutory claim.

proceeding that has an independent purpose other than to overturn the prior judgment.⁴ *Id.*

Galvan claims that he was denied the right to counsel because at his acceptance of plea/sentencing hearing,⁵ the magistrate did not engage in a full *Faretta*⁶ colloquy to ensure that he knowingly and intelligently waived his right to counsel. In support of this claim, he refers to *State v. Lovelace*, 140 Idaho 53, 90 P.3d 278 (2003), for the proposition that to be valid, a waiver of the right to counsel must have been knowingly, voluntarily, and intelligently effected. Therefore, Galvan argues, a magistrate judge, must engage in a *Faretta* dialogue with each defendant before accepting misdemeanor guilty pleas and proceeding to sentencing. Failure to do so, this argument continues, constitutes a denial of counsel sufficient to allow for future collateral attacks under *Weber*.

This argument contains a kernel of truth, but ultimately fails for a number of reasons. *Lovelace* does require a waiver of counsel to be made knowingly, voluntarily, and intelligently. Failure to do so is a constitutional violation. However, both *Weber* and *Custis* recognize that while many constitutional violations may justify collateral attacks of this nature, only a denial of the right to counsel as established by *Gideon v.*

⁴ The Court went on to state that “[t]hese principles bear extra weight in cases in which the prior conviction...[is] based on [a guilty plea], because when a guilty plea is at issue, ‘the concern with finality served by the limitation on collateral attack has special force.’” *Weber*, 140 Idaho at 93, 90 P.3d at 318 (quoting *United States v. Timmreck*, 441 U.S. 780, 784, 99 S.Ct. 2085, 2087 (1979)).

⁵ Galvan’s guilty plea was actually made at the courthouse counter, pursuant to Idaho misdemeanor Criminal Rule 14.

⁶ *Faretta v. California*, 422 U.S. 806, 819, 95 S.Ct. 2525, 2533 (1975).

Wainwright, 372 U.S. 335, 83 S.Ct. 792 (1963), is actionable in a collateral proceeding. *Weber*, 140 Idaho 89, 90 P.3d 314 (recognizing that Weber's plea may not have been knowingly, voluntarily, or intelligently made, but nevertheless refusing to allow a collateral attack); *Custis*, 511 U.S. 485, 114 S.Ct. 1732 (refusing to allow a collateral attack despite Custis' claims that his guilty plea was not knowingly and intelligently made and that his counsel was unconstitutionally ineffective).

The *Gideon* Court recognized that "reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him." *Gideon*, 372 U.S. at 344, 83 S.Ct. at 801. Therefore, *Gideon* stands for the right of an indigent defendant to have counsel appointed at public expense. Galvan was not denied this right.

On 09/05/10, Galvan was arrested for misdemeanor DUI. He bonded out before arraignment and appeared at the courthouse counter on 09/09/10. While at the counter, he signed (1) a Notification of Misdemeanor Rights,⁷ (2) a Notification of Penalties for Future Violations of Driving Under the Influence, (3) a Plea of Guilty form, and (4) a Notice of Hearing. The notice of hearing set Galvan's "Acceptance of Plea and Sentencing" for 10/05/10. On 09/14/10, Galvan submitted an application for the

⁷ This document, which Galvan signed, stated that "[t]he purpose of this initial appearance is to advise you of your rights." The document then went on and listed a number of Galvan's rights, including "the right to be represented by an attorney at all times. If you want an attorney, but cannot afford to pay for one, the court will, in appropriate cases, appoint one to help you." Galvan initialed each of the rights enumerated on this form.

appointment of a public defender. That application was denied the following day and a letter explaining that denial was sent to Galvan.⁸

Galvan appeared before the Magistrate almost one month later on 10/05/10. The transcript of that hearing includes the following dialogue:

THE COURT: Edgar Farfan-Galvan, CR-2010-10207. Mr. Galvan, are you represented by counsel?

THE DEFENDANT: What's that?

THE COURT: Do you have a lawyer?

THE DEFENDANT: I don't.

THE COURT: Okay, what would you like to say before I decide what I should do?

Galvan then proceeded to argue for leniency and the court proceeded with sentencing.

Galvan was informed of his right to counsel on 09/09/10, when he initialed and signed the Notification of Misdemeanor rights. He subsequently applied for a public defender, but was denied on the grounds that he was not indigent. At his 10/05/10 hearing, the magistrate asked him if he had a lawyer. Galvan answered "I don't" and proceeded into sentencing.

Whether the record before the court demonstrates violations of Idaho Criminal Rule 11 or any number of Galvan's constitutional rights is not properly before the court. Challenges to the validity of prior convictions alleged to have been obtained as the

⁸ Galvan had stated his monthly income on his application for a public defender as \$2,800.00. The court concluded that based on his income, he was not indigent.

result of invalid guilty pleas must be raised either through a direct appeal or by post-conviction relief and not in proceedings related to a subsequent felony DUI offense.

Weber, 140 Idaho at 96, 90 P.3d at 321.

Therefore, whether or not Galvan's right under *Lovelace* to a knowing, voluntary, and intelligent waiver of counsel was violated is immaterial.⁹ This court is faced with the narrow question of whether Galvan was denied his rights under *Gideon*, and this court finds that because Galvan applied for a public defender, was turned down based on income, showed up to his hearing without counsel, informed the court that he did not have a lawyer, and proceeded with sentencing, his rights to counsel under *Gideon* were not denied. As such, Galvan may not collaterally attack his prior conviction in this manner.

III. CONCLUSION

For the reasons stated above, the defendant's Motion to Dismiss and/or Remand is DENIED.

IT IS SO ORDERED.

December 4, 2014

Date

G. Richard Bevan

G. RICHARD BEVAN

District Judge

⁹ This court does not mean to imply that it lacks concern regarding constitutional violations of any kind. However, the limited scope of the issue before this court does not allow the court to ferret out all potential violations in Galvan's prior convictions.

CERTIFICATE OF SERVICE

I, Shelley Bartlett, do hereby certify that a true and correct copy of the foregoing document was sent to the following parties on this 5th day of December, 2014 by the service indicated:

Grant Loeb
Twin Falls County Prosecutor

[] First Class Mail, Postage Paid
[✓] Courthouse Mailbox
[] Hand Delivered

Marilyn Paul
Twin Falls County Public Defender

[] First Class Mail, Postage Paid
[✓] Courthouse Box
[] Hand Delivered

Kristina Glascock
Clerk of the District Court


Shelley Bartlett
Deputy Clerk

December 9, 2014 2:18 PM

By _____ Clerk

Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301**

STATE OF IDAHO,
Plaintiff.

vs.

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

DOB: 
DL: 

CASE NO: CR-2014-0011509

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Entry of Plea Monday, December 15, 2014 11:00 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Tuesday, December 09, 2014.

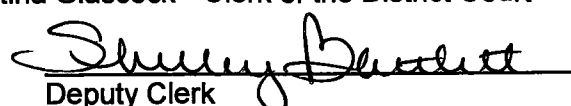
Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

Private Counsel: Mailed _____ Box ☒
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loebbs
Mailed _____ Box ☒

Dated: Tuesday, December 09, 2014
Kristina Glascock --Clerk of the District Court

By: 
Deputy Clerk

DEC 15 2014 11:26 am

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

SB Clerk
Deputy Clerk

JUDGE BEVAN
CLERK S. BARTLETT
REPORTER VIRGINIA BAILEY Sabrina Vasquez
COURTROOM 1

CASE # **CR-2014-0011509**

DATE 12/15/2014

TIME 11:00 AM

CD ~~11:03~~ 11:17

STATE OF IDAHO,
VS.

EDGAR FARFAN-GALVAN

[] DEFENDANT IN CUSTODY

CHARGES: Driving Under the Influence-(Third or Subsequent Offense)

[] ARRAIGNMENT [] STATUS [X] ENTRY OF PLEA [] BOND [] CHANGE OF PLEA

APPEARANCES:

[X] Defendant Present [X] Prosecutor Jethelyn Harrington
[X] Def. Counsel Sam Bruns [] Other _____

PROCEEDINGS AND ADVISEMENT OF RIGHTS:

[] Defendant is informed of the charges against him/her and all legal rights including the right to representation
[] Defendant is advised of the effect of a guilty plea and the maximum penalties
[] Defendant indicated that he/she understands rights and penalties
[] Waived reading of the "Information" [] Name verified [] Public Defender is confirmed/appointed

[] ENTRY OF NOT GUILTY PLEA: [] By defendant [] By the Court

State's Attorney: _____

of days for trial _____ Pre-Trial _____ Jury Trial _____
Discovery Cutoff _____ Status Hearing _____

[] ENTRY OF GUILTY PLEA: [] Defendant duly sworn in and questioned by the Court

Charge Amended to _____ Pled to _____

Counts to be Dismissed _____

[] Enters plea knowingly, freely and voluntarily [] Plea accepted and adjudged guilty [] Plea/Offer Filed

Sentencing Date _____

[] Presentence Report ordered [] 19-2524 Substance Abuse Eval [] 19-2524 Mental Health Eval

[] Updated PSR [] Psychosexual Eval [] Domestic Violence Eval [] Other Eval _____

[] Drug Court recommended Status Date _____

BOND HEARING: [] Counsel addressed the Court

[] Released on own recognizance [] Bond remains as set [] Bond re-set to _____

Conditions of Release: [] Court Compliance [] Curfew of _____ [] Remain on Probation

[] Reside at _____ [] _____ Random UAs per week

Other: Continued to 12-29-14 @ 8:45 am

December 17, 2014 8:50 AM

By SB Clerk
Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301

STATE OF IDAHO,
Plaintiff.

vs. CASE NO: CR-2014-0011509

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

NOTICE OF HEARING

DOB: [REDACTED]
DL: [REDACTED]

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Entry of Plea Monday, December 29, 2014 08:45 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Wednesday, December 17, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

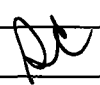
Private Counsel: Mailed _____ Box ☒
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loeb Mailed _____ Box ☒

Dated: Wednesday, December 17, 2014
Kristina Glascock --Clerk of the District Court

By: Sherry Bartlett
Deputy Clerk

December 19, 2014 3:52 PM

By  Clerk
Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301**

STATE OF IDAHO,
Plaintiff.

vs. CASE NO: CR-2014-0011509

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

DOB: 
DL: 

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Entry of Plea Monday, December 22, 2014 08:45 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Friday, December 19, 2014.

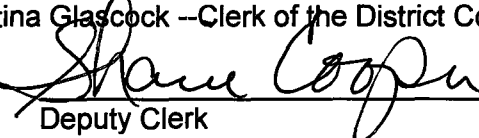
Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

Private Counsel: Mailed _____ Box X
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loebis
Mailed _____ Box X

Dated: Friday, December 19, 2014
Kristina Glascock --Clerk of the District Court

By: 
Deputy Clerk

DEC 22 2014 11:18am

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

Clerk

Deputy Clerk

JUDGE BEVAN
CLERK S. BARTLETT
REPORTER SABRINA VASQUEZ
COURTROOM 1

CASE # CR-2014-0011509

DATE 12/22/2014

TIME 08:45 AM

CD 10:06

STATE OF IDAHO,
VS.

EDGAR FARFAN-GALVAN

☒ DEFENDANT IN CUSTODY

CHARGES: Driving Under the Influence-(Third or Subsequent Offense)

☐ ARRAIGNMENT ☐ STATUS ☒ ENTRY OF PLEA ☐ BOND ☐ CHANGE OF PLEA

APPEARANCES:

☒ Defendant Present ☒ Prosecutor Julie Sturgill
☒ Def. Counsel Sam Beus ☐ Other _____

PROCEEDINGS AND ADVISEMENT OF RIGHTS:

☐ Defendant is informed of the charges against him/her and all legal rights including the right to representation
☐ Defendant is advised of the effect of a guilty plea and the maximum penalties
☐ Defendant indicated that he/she understands rights and penalties
☐ Waived reading of the "Information" ☐ Name verified ☐ Public Defender is confirmed/appointed

☐ ENTRY OF NOT GUILTY PLEA: ☐ By defendant ☐ By the Court

State's Attorney: _____

of days for trial _____ Pre-Trial _____ Jury Trial _____
Discovery Cutoff _____ Status Hearing _____

☒ ENTRY OF GUILTY PLEA: ☒ Defendant duly sworn in and questioned by the Court

Charge Amended to _____ Pled to charge

Counts to be Dismissed _____

☒ Enters plea knowingly, freely and voluntarily ☒ Plea accepted and adjudged guilty ☒ Plea/Offer Filed

Sentencing Date 12-29-14 @ 10:00 am

☐ Presentence Report ordered ☐ 19-2524 Substance Abuse Eval ☐ 19-2524 Mental Health Eval
☐ Updated PSR ☐ Psychosexual Eval ☐ Domestic Violence Eval ☐ Other Eval _____
☐ Drug Court recommended Status Date _____

BOND HEARING: ☐ Counsel addressed the Court

☐ Released on own recognizance ☐ Bond remains as set ☐ Bond re-set to _____

Conditions of Release: ☐ Court Compliance ☐ Curfew of _____ ☐ Remain on Probation

☐ Reside at _____ ☐ _____ Random UAs per week

Other: PSI waived - proceed to sentencing ASAP

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff,

vs. Edgar Fenton Galvan

Defendant.

CASE NO. CR 14-11509

X Guilty Plea Advisory Form

____ Guilty Plea Advisory Form Alford Plea

(Approved For Use in Twin Falls District Court)
(Revised as of March 2012)

DEC 22 2014 11:18 am

By SB Clerk
Deputy Clerk

STATEMENT OF CONSTITUTIONAL RIGHTS
(Please initial each response)

1. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you elect to have a trial, the state may not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am **waiving** my right to remain silent before and during trial.

E.F.

2. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county. You may be required to reimburse the county for the cost of this representation. E.F.

3. You are presumed to be innocent. You will be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am **waiving** my right to be presumed innocent. E.F.

4. You have the right to a speedy and public jury trial before twelve persons. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. You are not required to do so, however. The state must convince all of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am **waiving** my right to a speedy and public jury trial.

E.F.

5. You have the right to confront the witnesses testifying against you. This occurs during a jury trial. At trial, the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call witnesses of your choosing to testify on your behalf. If you do not have the funds to

bring those witnesses to court, the state will pay the cost of bringing your witnesses to court and will compel their attendance by the use of the subpoena power of the court.

I understand that by pleading guilty I am waiving my right to confront the witnesses against me, and present witnesses and evidence in my defense. E.F.

QUESTIONS REGARDING ABILITY TO ENTER PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

Please Circle and Initial One

1. Do you read and write the English language? YES E.F. NO _____
If not, have you been provided with an interpreter to help you fill out this form? .. YES NO E.F.
Do you want an Interpreter? YES NO E.F.
2. What is your age? 27
3. What is your true and legal name? Edgar Farfan Galvan
4. What was the highest grade of school you completed? 10th grade.
If you did not complete high school, have you received either a general education diploma or high school equivalency diploma? YES NO E.F.
5. Are you currently under the care of a mental health professional? YES NO E.F.
6. Have you ever been diagnosed with a mental health disorder? YES NO E.F.
If so, what was the diagnosis and when was it made? _____
7. Are you currently prescribed any medication? YES NO E.F.
If so, have you taken your prescription medication during the past 48 hours? YES NO E.F.
8. In the last 48 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case? YES NO E.F.
9. Are you under the influence of any alcohol, drugs, or other medication at this time? YES NO E.F.
10. Do you claim that you are incapable of understanding or do not understand these proceedings? YES NO E.F.
11. Is there anything going on in your life that affects your ability to enter a voluntary guilty plea? YES NO E.F.
12. Do you claim that you are mentally incapable of understanding these proceedings or what it means to plead guilty to a crime? YES NO E.F.

13. Are you having any difficulty in understanding what you are doing by filling out this form? YES NO E.F.

14. Is there any other reason that you cannot make a reasoned and informed decision in this case? YES NO E.F.

Plea Agreement

15. Is your guilty plea the result of a plea agreement? YES E.F. NO

If so, what are the terms of that plea agreement? (If available, a written plea agreement **must** be attached hereto as "Addendum 'A'")

Parties will stipulate to 2 years fixed, 3 indeterminate, suspended;
90 days jail as a term of probation.

16. Have you read this plea agreement? YES E.F. NO

17. Do you understand this plea agreement? YES E.F. NO

18. Is there anything about this plea agreement that you don't understand? YES NO E.F.

19. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea agreement:

a. I understand that my plea agreement is a **binding** plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____

E.F. b. I understand that my plea agreement is a **non-binding** plea agreement. This means that the court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, up to the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. E.F.

20. Is this plea agreement acceptable to you? YES E.F. NO

21. Has your attorney told you that you must accept this plea agreement? YES NO E.F.

22. Has your attorney or anyone else forced or coerced you in any way into accepting this plea agreement? YES NO E.F.

23. Have any other promises been made to you which have influenced your decision to plead guilty? YES NO E.F.

24. Has anyone told you what your sentence will be? YES NO E.F.

If so, what have you been promised? _____

25. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues? YES E.F. NO

If so, what issue(s) are you reserving the right to appeal? (A copy of the written conditional plea must be attached.) Court's Denial of Motion to ~~Dismiss~~ Dismiss or Remand

26. Have you waived your right to appeal your **judgment of conviction** as part of your plea agreement? YES E.F. NO

27. Have you waived your right to appeal your **sentence** as part of your plea agreement? YES NO E.F.

Under what conditions can you appeal your sentence? only if Court exceeds fixed sentence stipulation or does not put me on probation

28. Do you understand that by pleading guilty you will waive (or give up) any **defenses**, both factual and legal, that you believe you may have in this case? YES E.F. NO

29. Do you understand that this includes waiver of any claimed violations of your **Constitutional rights**? YES E.F. NO

30. Do you understand that if you enter an **unconditional** guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including: 1) any **searches or seizures** that occurred in your case, 2) any issues concerning the method or manner of your **arrest**, and 3) any issues about any **statements** you may have made to law enforcement? YES E.F. NO

31. Do you understand that by pleading guilty, you give up the right to pursue any motions (including motions to suppress or dismiss) that otherwise could have been filed and pursued in your case? YES E.F. NO

32. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty? YES E.F. NO

33. Have you discussed the elements of the offense(s) for which you are charged with your attorney? YES E.F. NO

POTENTIAL SENTENCE

34. I am charged with the crime(s) of Reckless DUI

The minimum and maximum jail sentence and fine including a "civil penalty" for each crime is

10 years; \$5,000 fine

35. In this case the court will impose a "unified sentence" consisting of a fixed term (or portion) and an indeterminate term (or portion). If you are required to serve this sentence in the penitentiary you will not be eligible for parole until you have served the fixed portion and thereafter will be paroled only if the parole board so determines. Do you understand these principles?

YES ☒ NO ☐

36. Do you understand that there are **other direct consequences** that arise from entry of a felony charge that are explained below.

YES ☒ NO ☐

37. As a term of your plea agreement, are you pleading guilty to more than one crime?

YES ☐ NO ☒ E.F.

If so, do you understand that your sentences for each crime could be ordered to be served either **concurrently** (at the same time) or **consecutively** (one after the other)?

YES ☐ NO ☐

38. Do you understand that if you plead guilty and you commit crimes in the future, this conviction would be considered in the future case and could cause a more severe penalty in the future case?

YES ☒ NO ☐

ADDITIONAL DIRECT CONSEQUENCES OF A GUILTY PLEA

39. Are you currently on probation or parole?

YES ☐ NO ☒ E.F.

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole (WHICH MEANS THAT ANY SUSPENDED SENTENCE COULD BE IMPOSED AND ANY PAROLE REVOKED)?

YES ☐ NO ☐

40. Are you aware that if you are not a **citizen** of the United States, the entry of a plea or making of factual admissions could: (1) result in your deportation or removal from the United States; (2) preclude you from obtaining legal status in the United States; or (3) prevent you from obtaining United States citizenship?

YES ☒ NO ☐

41. Does the crime to which you will plead guilty require you to register as a **sex offender**? (I.C. § 18-8304)

YES ☐ NO ☒ E.F.

42. Are you aware that if you plead guilty you may be required to pay **restitution** in this case? (I.C. § 19-5304)

YES ☐ NO ☒ E.F.

43. Are you pleading guilty to a crime for which you may be required to pay the **costs of prosecution and investigation**? (I.C. § 37-2732(k)), (I.C.R. 33(d)(2))

YES ☒ NO ☐ E.F.

If so, have you and the state agreed upon the amount of this reimbursement? .. YES ☐ NO ☐
If you have, what is the amount?

44. Have you agreed to pay restitution as a condition of your plea agreement?YES NO E.F.
 If so, to whom and how much? X _____
45. If the amount of restitution has not been agreed upon, do you understand that you cannot withdraw your guilty plea even if the restitution amount is determined to be higher than you thought it might be or should be?YES E.F. NO _____
46. Is a **driver's license suspension** required as a result of a guilty plea in this case?YES E.F. NO _____
 If so, for how long **must** your license be suspended? 1 year _____
47. Is there a **mandatory license suspension** applicable to this case?YES E.F. NO _____
 If so, do you understand that if there is a mandatory license suspension applicable to this case that you cannot under any circumstances have restricted privileges during this period of suspension?YES E.F. NO _____
48. Is there a **discretionary license suspension** applicable to this case?YES E.F. NO _____
 If so, do you understand that the decision to grant you restricted driving (**IF ALLOWED BY LAW**) privileges is up to the Judge?YES E.F. NO _____
49. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse or psychosexual **evaluation** is required? (I.C. § 18-918(7)(a)), (I.C. § 18-8005(9)), or (I.C. § 18-8317)YES E.F. NO _____
50. Are you pleading guilty to a crime for which you will be required to submit a **DNA sample** and **Right Thumbprint** impression to the state? (I.C. § 19-5506)YES E.F. NO _____
51. Are you pleading guilty to a crime for which the court could impose a **fine** for a crime of violence of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307)YES NO E.F.
52. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to **vote** in Idaho? (Id. Const. art.6, §3)YES E.F. NO _____
53. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold **public office** in Idaho? (Id. Const. art.6, §3)YES E.F. NO _____
54. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform **jury service** in Idaho? (ID. CONST. art. 6, § 3)YES E.F. NO _____
55. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry **firearms**? (I.C. § 18-310)YES E.F. NO _____

RELATIONSHIP WITH YOUR ATTORNEY

56. Have you had sufficient time to discuss your case with your attorney?YES E.F. NO _____

57. Have you had adequate time to fill out this form? YES ~~E.F.~~ NO ____

58. Have you had adequate access to your attorney's assistance in filling out this form? YES ~~E.F.~~ NO ____

59. Have you told your attorney everything you know about your case? YES ~~E.F.~~ NO ____

60. Is there anything you have requested your attorney do that has not been done? . YES ____ NO ~~E.F.~~

If yes, please explain. _____

61. Your attorney can obtain various items from the prosecutor relating to your case. This may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called "**discovery**." Have you reviewed the evidence provided to your attorney during discovery? YES ~~E.F.~~ NO ____

62. Are there any additional items you want to view before entering a guilty plea YES ____ NO ~~E.F.~~

If so, what? _____

63. Do you want your attorney to undertake further investigation of your case? YES ~~E.F.~~ NO ____

64. Has your attorney properly or adequately investigated your case? YES ~~E.F.~~ NO ____

65. Have you told your attorney about any witnesses, including any who would show your innocence? YES ~~E.F.~~ NO ____

66. Have you and your attorney discussed any potential motions that you would like filed in your case? YES ~~E.F.~~ NO ____

67. Are there any motions or other requests for relief (including motions to suppress or dismiss) that you believe should still be filed in this case? ~~YES~~ ~~E.F.~~ NO ~~E.F.~~

If so, what motions or requests? Court's denial of motion to dismiss
or Remand.

68. Do you understand that no one, including your attorney, can force you to plead guilty in this case? YES ~~E.F.~~ NO ____

69. Are you satisfied with your attorney's representation? YES ~~E.F.~~ NO _____
If not, please state why you are dissatisfied _____

70. Has your attorney made any promises or commitments about what your sentence would be?
..... YES NO ~~E.F.~~

ENTRY OF PLEA

71. Are the answers throughout this form your own answers? YES ~~E.F.~~ NO _____

72. Are you entering your plea freely and voluntarily? YES ~~E.F.~~ NO _____

73. Do you understand the consequences of entering a guilty plea? YES ~~E.F.~~ NO _____

74. Why are you pleading guilty to the charge(s) in this case? [will enter on record]

75. Are you pleading guilty just to get out of jail? YES NO ~~E.F.~~

76. Do you understand that even if the state agrees to release you from jail pending sentencing that the court may decide not to release you? YES ~~E.F.~~ NO _____

77. Are you pleading guilty "just to get this over with"? YES NO ~~E.F.~~

78. Have you read all of the charges in the information or indictment filed against you?
..... YES ~~E.F.~~ NO _____

79. Are you admitting to all of the elements of the crime(s) to which you are pleading guilty?
..... YES ~~E.F.~~ NO _____

80. Are you pleading guilty because you did commit the acts alleged in the information or indictment? YES ~~E.F.~~ NO _____

81. Or are you pleading guilty because you are entering an Alford Plea? YES NO ~~E.F.~~

82. Explain what you did that makes you guilty of the charges against you. (NON ALFORD PLEA)
[will enter on record]

83. If you are entering an Alford Plea, do you understand that the court will consider you just as guilty as if you enter a non-Alford Plea? YES ___ NO ___

84. Have you had any trouble answering any of the questions in this form which you could not resolve by discussing the issue(s) with your attorney? YES ___ NO E.F.

If so, what? _____

85. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter? YES ___ NO E.F.

86. Do you need any additional time before you enter your guilty plea(s)? YES ___ NO E.F.

87. Do you understand that if the Court accepts your guilty plea(s) that you may not be able to withdraw your plea(s) at a later date? YES E.F. NO ___

88. Is there any other matter not covered by your answers to the foregoing questions that affects your decision to plead guilty that you want to tell the Court about? YES ___ NO E.F.

If so, what? _____

89. I hereby enter a plea of guilty to the Charge(s) of: D.U.I.

I have answered the questions on pages 1-10 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily **WITH A COMPLETE UNDERSTANDING OF THE CHARGE(S) TO WHICH I AM PLEADING GUILTY AND WITH KNOWLEDGE OF THE POTENTIAL CONSEQUENCES OF THIS PLEA.** Furthermore, no one has forced me or threatened me to plead guilty.

Dated this 15 day of December, 2014.

[Signature]
DEFENDANT

I hereby acknowledge that I have discussed in detail the foregoing questions and answers with my client.

[Signature]
DEFENDANT'S ATTORNEY

POST PLEA RIGHTS

A presentence investigation will be ordered by the Court unless both you and the State waive that report and the Court approves that waiver. The Court may order evaluations as part of this investigation **AND THESE REPORTS WILL BE USED TO DETERMINE YOUR SENTENCE.** You have the right to remain silent during all proceedings and interviews from now until sentencing WHICH INCLUDES THE PRESENTENCE INVESTIGATION AND ANY COURT ORDERED EVALUATIONS.

The information in the presentence interview and any evaluations (which will include any statements you make in these processes) will be used by the Court in determining your sentence. In particular if you are ordered to undergo a psychosexual evaluation (which can include a polygraph examination), a domestic violence evaluation, a substance abuse evaluation or a mental health examination (which can include a psychological or psychiatric examination) you will be asked extensive questions and your answers to those questions may be used against you during sentencing.

1. Have you discussed the right to remain silent with your attorney? YES ~~EF~~ NO ____
2. Do you understand the nature of these rights? YES ~~EF~~ NO ____
3. Do you understand that you may waive these rights? YES ~~EF~~ NO ____
4. Have you waived any of these rights in your plea agreement? YES ~~EF~~ NO ____
5. Do you have any questions concerning either these rights or the waiver of these rights?
..... YES ____ NO ~~EF~~ ____
6. Have you discussed with your attorney your rights regarding your attorney's attendance and presence during the presentence investigation or these various evaluations? YES ~~EF~~ NO ____
7. Do you want the court to order any particular evaluations to assist the court in determining your sentence in this case? YES ____ NO ~~EF~~ ____
If yes, which evaluations and why. _____

I acknowledge the foregoing post plea rights. Edgar J. Jr DATE 12/15/2014
Defendant

I acknowledge that I have discussed the post plea rights listed above with my client.

[Signature] DATE 12/15/14
Defendant's Attorney



TWIN FALLS COUNTY
PROSECUTING ATTORNEY

DISTRICT COURT
Fifth Judicial District
County of Twin Falls - State of Idaho

GRANT P. LOEBS

DEC 22 2014 11:18 am

By SB Clerk
Deputy Clerk

425 SHOSHONE STREET NORTH
P.O. BOX 126
TWIN FALLS, IDAHO 83303-0126 OFFER--PLEA AGREEMENT

Defendant: Edgar Farfan-Galvan
Defense Attorney: Sam Beus
Date of Offer: November 12, 2014

Case Number: CR 14-11509

OFFER EXPIRES: November 13, 2014 @ 4:00 pm

Filed Charges

Count I: Felony DUI

Offer The State makes the following offer and the defendant agrees to the following terms:

- ☒ The defendant will plead guilty to Felony DUI.
- ☒ * Jail/Prison terms: The State will recommend a sentence of 2 years fixed with 3 indeterminate for a total of 5 years with 120 days in County Jail and probation. *90 days jail*
- ☒ * Fine: In the court's discretion.
- ☒ Driver's License Suspension: 2 year absolute with an interlock thereafter in the Court's discretion.
- ☒ Pay restitution to "law enforcement agencies" as outlined in I.C. § 37-2732 (k) and/or § 18-8003(2).
- ☒ Notwithstanding the right against self-incrimination and any rights under *State v. Estrada*, the defendant agrees to cooperate in a full disclosure alcohol evaluation prior to sentencing and to cooperate with the presentence investigation. Any evaluation ordered or considered by the Court must be performed by an evaluator approved by both parties.
- ☒ The defendant stipulates to the admission of blood, urine, or breath test results at any probation hearing in lieu of live testimony. If the defendant's probation is transferred out of the 5th Judicial District, the defendant stipulates to the admission of reports, written statements, and affidavits at future probation violation hearings without live testimony.
- * On this term, the Defense may argue for whatever it feels is appropriate.
- ** Pursuant to Idaho law, the parties agree that the State is free to argue, and the Court is free to consider the facts of the dismissed case(s) and/or unfiled charge(s) in aggravation at sentencing.

Terms of Offer

- This offer is contingent upon the defendant waiving preliminary hearing on all filed charges.
- This offer is contingent upon the defendant providing to the State a completed *Guilty Plea Advisory Form* at the entry of plea hearing. Said form will be retained by the State and may be used by the State for any purpose consistent with the Idaho Rules of Evidence.
- The State may alter the above sentencing recommendation if:
 1. There are new criminal charges or probation/parole violation allegations filed against this defendant (including those offenses or allegations committed or discovered by the State before sentencing);
 2. The defendant has additional juvenile or adult convictions beyond those provided in discovery in the NCIC report, juvenile history, and driving record;
 3. The defendant fails to appear for any scheduled court hearing in this case or any other pending criminal case or fails to comply with any court order (including court compliance); or
 4. The defendant, after entering a guilty plea, moves to withdraw the guilty plea.
- By accepting this offer the defendant waives the right to: (1) file a Rule 35 Motion regarding the initial Judgment (except as to an illegal sentence) and (2) appeal any issues in this case, including all matters involving the plea or the sentence and any rulings made by the court, including all suppression issues. However, the defendant may appeal the sentence if the Court exceeds the recommendation made by the State at sentencing regarding: (1) the determinate portion of the sentence, and/or (2) a probation recommendation, and/or (3) a retained jurisdiction recommendation.
- This offer is withdrawn if the defendant does not (1) accept it by the expiration date and (2) plead guilty pursuant to the offer at District Court Arraignment.
- This offer constitutes the entire agreement between the State and defendant concerning the disposition of the above criminal charge(s), and can only be modified in writing, signed by the State and the defendant.

Jethelyn Harrington
Jethelyn Harrington

11-12-14
Date

I have read the offer, I understand it, and I accept the offer on the above-stated terms.

Edgar Farfan
Defendant

12/22/2014
Date

Sam Beus
Defense Counsel

12/22/14
Date

CRIMINAL
DIVISION

PHONE
208-736-4020

FAX
208-736-4120

CIVIL
DIVISION

PHONE
208-736-4190

FAX
208-736-4157

JUVENILE
DIVISION

PHONE
208-733-7899

FAX
208-736-5325

December 24, 2014 11:21 AM

By SB Clerk
Deputy Clerk

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
427 Shoshone Street North
Twin Falls, Idaho 83301**

STATE OF IDAHO,
Plaintiff.

vs.

CASE NO: CR-2014-0011509

Edgar Farfan-Galvan
2459 Hwy 25
Hazelton, ID 83335
Defendant.

NOTICE OF HEARING

DOB: [REDACTED]
DL: [REDACTED]

NOTICE IS HEREBY GIVEN that the above-entitled case is hereby set for:

Sentencing Monday, December 29, 2014 10:00 AM
Judge: Honorable G. Richard Bevan

I hereby certify that the foregoing is a true and correct copy of this Notice of Hearing entered by the Court and on file in this office. I further certify that copies of this Notice were served as follows on this date Wednesday, December 24, 2014.

Alternate Judges: Notice is hereby given that the presiding judge assigned to this case intends to utilize the provisions of I.C.R. 25(a)(6). Notice is given that if there are multiple defendants, any disqualification pursuant to I.C.R. 25(a)(1) is subject to prior determination under I.C.R. 25(a)(3). The panel of alternate judges consists of the following judges who have otherwise not been disqualified in this action: Judges Bevan, Brody, Butler, Crabtree, Elgee, Hurlbutt, McDermott, Schroeder, Stoker, Wildman and Williamson.

Defendant: Edgar Farfan-Galvan Mailed _____ Hand Delivered _____

Private Counsel: Mailed _____ Box ☒
Marilyn Paul
P.O. Box 126
Twin Falls ID 83303-0126

Prosecutor: Grant Loeb Mailed _____ Box ☒

Dated: Wednesday, December 24, 2014
Kristina Glascock --Clerk of the District Court

By: Shirley Bartlett
Deputy Clerk

NOTICE OF HEARING

148
OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, Idaho 83303-0126
(208) 734-1155
ISB #7193

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2014 DEC 29 AM 10:03

BY _____
CLERK
DEPUTY

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

* * * * *

STATE OF IDAHO,

Plaintiff,

v.

EDGAR FARFAN-GALVAN,

Defendant.

CASE NO: CR 2014-11509

CONDITIONAL PLEA


COMES NOW, Edgar Farfan-Galvan, the above-named defendant, by and through his attorney, Samuel S. Beus, Deputy Public Defender for Twin Falls County, and reserves the right to appeal the judgment in the above-entitled case pursuant to Rule 11(a)(2) of the Idaho Criminal Rules. As grounds therefor, Defendant states the following:

1. ICR 11(a)(2) allows a defendant to enter a conditional plea of guilty reserving, in writing, the right to appeal from the judgment or to review a specified adverse ruling. This conditional plea is the writing specifying the reservation of the right to appeal.


2. The defendant reserves the right to appeal the Court's Memorandum and Order Re: Motion to Dismiss or Remand, filed in this matter on December 4, 2014.

3. Should the defendant prevail on appeal regarding the Court's Order denying this Motion, the defendant reserves the right to withdraw his guilty plea.

Respectfully submitted this 29 day of December, 2014.



Jethelyn Harrington
Deputy Prosecuting Attorney



Samuel S. Beus
Deputy Public Defender

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Motion was delivered to the following on the 29 day of December, 2014, by placing the same in the appropriate box at the Twin Falls County Courthouse:

☒ Grant P. Loeb
Twin Falls County Prosecuting Attorney



Legal Assistant

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

2014 DEC 29 AM 11:32

JUDGE BEVAN
CLERK S. BARTLETT
REPORTER VIRGINIA BAILEY
COURTROOM 1

CASE # CR-2014-0011509
DATE 12/29/2014 BY 83 CLERK
TIME 10:00 AM
CD 10:28 DEPUTY

STATE OF IDAHO,
VS.

EDGAR FARFAN-GALVAN

☒ DEFENDANT IN CUSTODY

CHARGES: Driving Under the Influence-(Third or Subsequent Offense)

SENTENCING/REVIEW MINUTES

APPEARANCES:

☒ Defendant Present ☒ Prosecutor Jethelyn Harrington
☒ Def. Counsel Sam Bruns ☐ Other _____

PROCEEDINGS AND ADVISEMENT OF RIGHTS:

- ☐ Defendant is informed of the charges against him/her and all legal rights including the right to representation
☐ Defendant is advised of the effect of a guilty plea and the maximum penalties
☐ Defendant indicated that he/she understands rights and penalties
☐ Waived reading of the "Information" ☐ Name verified ☐ Public Defender is confirmed/appointed

SENTENCE: ☒ Court and Counsel reviewed the PSI ☒ Counsel gave recommendations to the Court ☐ Withheld Jdmt

☒ Penitentiary 5 yrs ☐ Determinate 2 yrs ☐ Indeterminate 3 yrs
☐ Credit for _____ days ☐ Concurrent ☐ Consecutive _____

☐ _____ days Retained Jurisdiction ☐ RJTR ☐ RJCAPP ☐ RJTC ☐ RJCAPS ☐ RJSO ☐ RJNR

FINES/FEES/COSTS: ☒ Court Costs ☒ Fine 0 ☐ Suspended _____

☐ Public Defender Fees _____ ☐ Court Compliance Fees _____ ☐ Rule 33(d)(2) Reimbursement _____

☐ Restitution _____ ☐ Payment plan set up through P & P _____

☐ Payments to begin _____ at _____ per month Final payment due _____

PROBATION: ☒ Probation Time 5 yrs ☒ General Terms of Probation submitted

Other Terms: ☒ 90 days county jail ☒ 50 days credit for county jail ☐ Work Release, if approved

☐ _____ days county jail held in abeyance until review hearing on _____

☐ Random UAs per week for _____ days, then at PO's discretion ☐ _____ Hair Follicle tests per year

☐ AA/NA meetings in _____ days ☐ Obtain a Sponsor by _____

☐ Report to 12 step Meeting/Aftercare within 24 hours ☐ Obtain all treatment pursuant to I.C. 19-2524

☐ Follow Rec. in PSI ☐ Follow Rec. of Sub Abuse Assessment ☐ Follow Rec. of Mental Health Eval

☐ No Assn w/ persons noted by P&P or with anyone if you don't know their last name. ☐ Provide a No Contact list

☐ Do not purchase, possess or consume controlled substances/alcohol or be where they are present

☐ Create a Budget ☐ No checking acct unless approved ☐ No indebtedness of \$250.00 or more unless approved

☐ Apologize to Victim by _____ ☐ GED to be completed by _____

☐ Driving privileges suspended _____ years ☐ _____ years ABSOLUTE ☐ Interlock device until _____

☐ _____ hrs Community Service within _____ days; _____ hrs to be served on County Work Detail

☐ _____ hrs Community Service per Week until Employed Full Time beginning _____

☐ Comply with all court orders ☐ DNA Sample ☐ Thumbprint ☐ Job Search

☐ Transfer of Probation approved to _____

☒ Enroll with Probation and Parole within 5 days of returning to the U.S. or within 72 hours to the State of Idaho

☐ Waiver of Fourth Amendment Rights ☐ Right to Appeal Waived due to Plea Agreement ☐ Right to Appeal Given

Other: Discretionary jail is stricken - Converts to unsupervised if defendant is deported

2014 DEC 29 AM 11:32

BY _____ CLERK

SB DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

State of Idaho,

Plaintiff,

vs.

Case No. CR-2014-11509

EDGAR FARFAN-GALVAN, a.k.a.
EDGAR FARFAN, a.k.a. EDGAR G.
FARFAN GALVAN, a.k.a. EDGAR
GALVAN FARFAN, a.k.a. EDGAR
GALVAN-FARFAN, a.k.a. EDGAR
GALVAN

SSN [REDACTED]
DOB [REDACTED]

Defendant.

**JUDGMENT OF CONVICTION
UPON A PLEA OF GUILTY TO ONE FELONY COUNT, SUSPENDING SENTENCE
AND ORDER PLACING DEFENDANT ON PROBATION, I.C. § 19-2601(2) and (5).**

I. APPEARANCES.

1. The date of sentencing was 12/29/14, (hereinafter called sentencing date).
2. The State of Idaho was represented by counsel, Suzanne Craig, of the Twin Falls County Prosecutor's office.
3. The defendant, EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN, a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN, a.k.a. EDGAR GALVAN, appeared personally. I.C. § 19-2503.
4. The defendant was represented by counsel, Sam Beus.

5. G. Richard Bevan, District Judge, presiding.

II. ARRAIGNMENT FOR SENTENCING; I.C. § 19-2510, I.C.R. 33.

1. **Arraignment:** The defendant, EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN, a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN, a.k.a. EDGAR GALVAN, was informed by the Court at the time of the sentencing of the nature of charge and the defendant's plea, which in this case was:

Crime of: Operating a Motor Vehicle While Under the Influence of Alcohol, a felony.

Idaho Code Section(s): 18-8004, 18-8005(6).

Maximum Penalty: Court costs, restitution, up to ten (10) years imprisonment, up to five thousand dollar (\$5,000) fine, or both such fine and imprisonment, driving privileges suspended for up to five (5) years after release from imprisonment, and substance abuse treatment can be ordered at the defendant's expense.

Minimum Penalty: Imprisonment in the county jail for not less than 30 days (first 48 hours consecutive and 10 days must be in jail) and driving privileges suspended for 1 year after release from imprisonment.

Idaho Code Section(s): 18-8004, 18-8005(6).

Guilty by Plea -- date of: 12/22/14.

2. **Grounds for Not Entering Judgment (I.C. §§ 19-2510, 19-2511):** The defendant was then asked by the Court whether the defendant had any legal cause to show why judgment should not be pronounced against the defendant, to which the defendant responded "No."

III. PLEA OF GUILTY PREVIOUSLY ENTERED AND ACCEPTED.

1. The defendant, EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN, a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN, a.k.a. EDGAR GALVAN, previously pled guilty on the date of 12/22/14, (hereinafter called "the entry of plea"), to the crime set forth in section II immediately above.
2. At the entry of the plea of guilty, and pursuant to I.C.R. 5 and 11, the following occurred:
 - A. The defendant was advised by the Court of the following:

- i. The nature of the charge against the defendant, the minimum and maximum punishments, and other direct consequences which may apply;
 - ii. That the defendant was not required to make any statement and that any statement made by the defendant may be used against the defendant in a court of law;
 - iii. That the defendant was presumed to be innocent;
 - iv. That by entering a plea of guilty to the above identified charge, the defendant would:
 - a. Waive the right to a trial by jury;
 - b. Waive the right to require the State to prove each material element of the crime charged beyond a reasonable doubt;
 - c. Waive the right to free Court appointed counsel to represent the defendant through a jury trial if the defendant was indigent;
 - d. Waive the right to a speedy trial;
 - e. Waive the right to challenge the evidence presented by the State, and specifically the right to confront and cross examine the witnesses who testified against the defendant;
 - f. Waive the right to present evidence on the defendant's own behalf, specifically including the right to subpoena witnesses at the County's expense;
 - g. Waive the right against compulsory self-incrimination;
 - h. Waive any and all possible defenses to the charge brought against the defendant, both factual and legal; and
 - i. Lose the right to appeal except as to the sentence imposed in circumstances where the sentence is illegal or exceeds the determinate portion of the State's sentencing recommendation.
- B. The Court inquired of whether any promises had been made to the defendant or whether the plea was a result of any plea bargaining agreement, and if so, the nature of the agreement; and that the defendant was informed that the Court was not bound by any promises or recommendations from either party as to punishment.

- C. The defendant was advised, in accordance with I.C.R. 11 (d)(2), that if the Court did not accept the sentencing recommendation or request, the defendant nevertheless had no right to withdraw the defendant's guilty plea on that basis.
- D. The defendant stated and acknowledged that the plea was knowingly and voluntarily given; and that the plea was given of the defendant's own free will and volition.
- E. That there was a factual basis to support the said plea.
- F. Whereupon the defendant entered a plea of guilty to said charge.
- G. The Court then found that the plea was entered upon the advice and consent of the defendant's counsel.
- H. Whereupon the Court accepted the plea of guilty and found and adjudged the defendant, EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN, a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN, a.k.a. EDGAR GALVAN, guilty of the crime identified and set forth in section II "Arraignment for Sentencing" above.

IV. SENTENCING DATE PROCEEDINGS.

On 12/29/14, the sentencing date, and after the arraignment for sentencing as set forth in section II "Arraignment for Sentencing" above, the Court proceeded as follows:

1. Determined that more than two (2) days had elapsed from the plea to the date of sentencing. I.C. § 19-2501, I.C.R. 33(a)(1).
2. Discussed the presentence report and relevant matters with the parties pursuant to I.C. § 20-220 and I.C.R. Rule 32.
3. Determined victim's rights and restitution issues pursuant to I.C. § 19-5301 and Article 1, § 22 of the Idaho Constitution.
4. Offered an aggravation and/or mitigation hearing to both parties, including the right to present evidence pursuant to I.C.R. 33(a)(1).
5. Heard comments and sentencing recommendations of both counsel and asked the defendant personally if the defendant wished to make a statement and/or to present any information in mitigation of punishment. I.C.R. 33(a)(1).
6. The Court made its comments pursuant to I.C. § 19-2512, and discussed one or more of the criteria set forth in I.C. § 19-2521.

V. THE SENTENCE.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, as follows:

1. **Crime of:** Operating a Motor Vehicle While Under the Influence of Alcohol, a felony.
2. **Court Costs:** The defendant shall pay court costs in the sum of \$290.50.
3. **Fine:** The defendant is fined the sum of \$0.00, and the defendant shall pay all costs, fees and fines ordered by this Court. This judgment that the defendant pay a fine and costs shall constitute a lien in like manner as a judgment for money in a civil action. I.C. § 19-2518, I.C. § 19-2702.
4. **Penitentiary:** The defendant, EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN, a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN, a.k.a. EDGAR GALVAN, shall be committed to the custody of the Idaho State Board of Correction, Boise, Idaho for a unified sentence (I.C. § 19-2513) of **5 year(s)**; which unified sentence is comprised of a minimum (fixed) period of confinement of **2 year(s)**, followed by an indeterminate period of custody of **3 year(s)**, with the precise time of the indeterminate portion to be set by said Board according to law, with the total sentence not to exceed **5 year(s)**.
5. **DNA Sample and Thumbprint Impression:** The defendant shall submit a DNA sample and a right thumbprint impression. I.C. § 19-5506.
6. **Sentence Suspended, Terms of Imposed Unsupervised Probation, INS Hold:** The defendant is subject to an INS hold. It is represented to the Court at sentencing that the defendant will be promptly removed from the United States of America, and thus, not available for supervision by I.D.O.C. This unsupervised probation is specifically granted and is conditioned on the defendant's removal from the U.S. because the defendant cannot be supervised if deported.

Other Specific Terms:

- A. The period of probation is 5 year(s).
- B. The defendant is to violate no laws.
- C. The defendant is not to re-enter the U.S. illegally.
- D. If the defendant does re-enter the U.S., upon any basis within this 5 year period, the defendant shall immediately report to the Twin Falls, Idaho office of Parole and Probation within 72 hours of re-entry into the U.S. and will be subject to supervised probation thereafter.

E. Additionally, if the defendant is not removed from the U.S., the defendant will be on supervised probation as set forth in this order.

7. **Sentence Suspended - Terms of Probation:** Provided however, that the execution of said prison portion of the sentence is hereby suspended (the costs and fine portion is not suspended) and the defendant is placed on probation for a period of **5 year(s) or until all financial obligations are paid, whichever is longer** (subject to I.C. § 20-222), beginning on 12/29/14, to and under the control of the Idaho State Board of Correction, (I.C. § 19-2601(5), I.C. § 20-219, and I.C.R. 33(d)), subject to the following terms

A. **Supervision Level:** Pursuant to I.C. § 20-219, I.D.O.C. is charged with the duty of supervising all persons convicted of a felony and placed on probation. As such, the level of supervision is left to the discretion of I.D.O.C. The defendant shall enter into and comply with a written agreement of supervision with I.D.O.C., in addition to the terms set forth below.

B. **General Conditions:** Abide by the Court Ordered General Conditions of Probation previously signed and attached hereto, which is by this reference incorporated herein.

C. **Special Terms and Conditions:** In addition, the Court orders the following special conditions.

a. **County jail time to be presently served:** The defendant shall serve 90 day(s) in the county jail as a term and condition of probation. The defendant is given credit, however, for 58 days with 32 days remaining to be presently served. The defendant shall pay all associated fees. _____

D. **Termination of Probation:** Probation has been ordered for a specific length of time; however, probation shall not be terminated until the Court has both reviewed the performance of the probationer and has signed an order discharging the probationer.

VI. ORDER REGARDING RESTITUTION.

1. **Cost of Presentence Investigation Report:** The defendant shall pay an amount to be determined by the Idaho Department of Correction, but not to exceed \$100.00, for the cost of conducting and preparing the presentence investigation report. I.C. § 19-2516.
2. **Restitution for DNA Sample:** The defendant shall pay \$100.00 restitution for the DNA sample. I.C. § 19-5506(6).
3. **Independent Enforcement of Order of Restitution:** Nothing contained in this judgment shall preclude a victim from independently enforcing an order of restitution.

VII. BOND/CONDITIONS OF RELEASE.

The defendant has satisfied the conditions of release in this case. Any cash bond posted in this case shall be applied to the costs and fine imposed in this case with the surplus, if any, refunded to the posting party. I.C. § 19-2923. Any surety bond posted in this case is hereby exonerated. I.C.R. 46(g). If the defendant was subject to any conditions of release, those conditions are ordered dismissed. I.C.R. 46(g).

VIII. ORDER ON PRESENTENCE INVESTIGATION REPORTS.

The parties are hereby ordered to return their respective copies of the presentence investigative reports to the deputy clerk of the court's custody and use of said report shall thereafter be governed by I.C.R. 32(h)(1), (2), and (3).

IX. ENTRY OF JUDGMENT - PROBATION - RECORD BY CLERK.

The Court orders the Judgment and record be entered upon the minutes and that the record be assembled, prepared and filed by the Clerk of the Court in accordance with I.C. § 19-2519(a).

X. TERMINATION OF PUBLIC DEFENDER APPOINTMENT.


The appointment of the Twin Falls County Public Defender, including conflict counsel, is terminated immediately if the defendant has waived the right to file an Appeal or Rule 35 Motion, or, in the event of no waiver, 120 days from the date of this Judgment if the defendant has not filed an Appeal, Rule 35, or post-trial Motion.

XI. RIGHT TO APPEAL - WAIVER.

The Right: The defendant waived certain appeal rights pursuant to the written plea agreement in this case. To the extent the defendant retains any appeal rights, the Court advised the defendant, of the right to appeal this judgment within forty two (42) days of the date it is file stamped by the clerk of the court. I.C.R. 33(a)(3), I.A.R. 14(a).

In Forma Pauperis: The Court further advised the defendant of the right of a person who is unable to pay the costs of an appeal to apply for leave to appeal in forma pauperis, meaning the right as an indigent to proceed without liability for court costs and fees and the right to be represented by a court appointed attorney at no cost to the defendant. I.C.R. 33(a)(3), I.C. § 19-852(a)(1) and (b)(2).

IT IS SO ORDERED.

DATED: 12.29.14
SIGNED: 
G. RICHARD BEVAN, District Judge

State of Idaho,)
) ss.
County of Twin Falls)

EDGAR FARFAN-GALVAN, a.k.a. EDGAR FARFAN,
a.k.a. EDGAR G. FARFAN GALVAN, a.k.a. EDGAR
GALVAN FARFAN, a.k.a. EDGAR GALVAN-FARFAN,
a.k.a. EDGAR GALVAN

127

CERTIFICATE OF SERVICE

I, Shelley Bartlett, do hereby certify that a true and correct copy of the foregoing document was sent to the following parties on this 29 day of Dec 2014 by the service indicated:

Suzanne Craig
Twin Falls County Prosecutor

☐ First Class Mail, Postage Paid
☒ Courthouse Mailbox
☐ Hand Delivered

Sam Beus
Defense Counsel

☐ First Class Mail, Postage Paid
☒ Courthouse Box
☐ Hand Delivered

Twin Falls County Sheriff

☒ Emailed to:
rhass@co.twin-falls.id.us
dihall@co.twin-falls.id.us

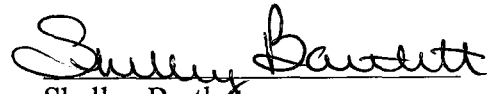
Fifth District Probation & Parole

☒ Emailed to:
District5@idoc.idaho.gov

Idaho Department of Corrections
Central Records

☒ Emailed to:
ccdsentencing5@idoc.idaho.gov
centralrecords@idoc.idaho.gov

Kristina Glascock
Clerk of the District Court


Shelley Bartlett
Deputy Clerk

GENERAL CONDITIONS OF PROBATION

(For use in Judge Bevan or Stoker cases effective April 1, 2012)

1. **Supervision Level:** Unless otherwise specified by the Court Defendant's level of supervision, including caseload type and electronic monitoring, shall be determined by the Idaho Department of Correction ("hereinafter IDOC"). E.F.
2. **Laws and Conduct:** Defendant shall obey all municipal, county, state and federal laws including those denominated infractions. The Defendant shall comply with all lawful requests of any agent of the IDOC. The Defendant shall be completely truthful at all times with any agent of the Idaho Department of Correction and with law enforcement personnel. During any contact with law enforcement personnel the Defendant shall provide Defendant's identity, notify the officer(s) that Defendant is under felony supervision and provide the name of Defendant's supervising officer. The Defendant shall notify Defendant's supervising officer of any such contact within 24 hours of its occurrence. E.F.
3. **Reporting:** Defendant shall report to Defendant's supervising officer as directed by the probation office. The Defendant shall provide truthful and accurate information or documentation whenever requested by the IDOC. E.F.
4. **Residence:** Unless otherwise specifically ordered by the Court IDOC shall determine and designate the residence of the Defendant. Defendant shall not change Defendant's approved place of residence without first obtaining written permission from Defendant's probation officer. E.F.
5. **Cooperation with Supervision:** When home, the Defendant shall answer the door for the probation officer. The Defendant shall allow the probation officer to enter Defendant's residence, other real property, place of employment and vehicle for the purpose of visitation, inspections, searches and other supervision functions. The Defendant shall not possess, install or use any monitoring instrument, camera, or other surveillance device to observe or alert Defendant to the approach of Defendant's probation officer. The Defendant shall not keep any vicious or dangerous dog or other animal on or about Defendant's property that the probation officer perceives as an impediment to accessing the Defendant property. E.F.
6. **Truthfulness:** Defendant waives Defendant's Fifth Amendment rights to the extent that the Defendant must be honest and truthful with probation officer regarding matters of compliance and non-compliance with the conditions of probation. The Defendant agrees to submit to polygraph examinations at Defendant's expense upon the request of Defendant's probation officer. E.F.

7. **Absconding Supervision:** Defendant shall be available for supervision as instructed by Defendant's probation officer and will not actively avoid supervision. E.F.
8. **Travel:** Defendant shall not leave either the State of Idaho or Defendant's assigned judicial district without advance permission of Defendant's probation officer. E.F.
9. **Extradition:** If Defendant does leave the State of Idaho, with or without permission, the Defendant does hereby waive extradition to the State of Idaho and will not contest any effort to return the Defendant to the State of Idaho. The Defendant will pay for the cost of extradition E.F.
10. **Intrastate/Interstate Violations:** If allowed to transfer supervision to another district or state, Defendant agrees to admit into evidence at any probation violation hearing any probation violation allegation documents submitted by the agency/officer supervising the Defendant in the receiving district or state. The Defendant waives the right to confront the author of such documents. E.F.
11. **Curfew:** Defendant will observe all curfew restrictions imposed by Defendant's supervising officer. E.F.
12. **Firearms/Weapons:** Defendant shall not purchase, carry, possess or have control of any firearms, chemical weapons, electronic weapons, explosives or other dangerous weapons. Other dangerous weapons may include, but are not limited to: knives with blades over two and one half inches in length, switchblade knives, brass knuckles, swords, throwing darts and other martial arts weapons. Any weapons or firearms seized from the Defendant will be forfeited to IDOC for disposal. The Defendant shall not reside in any location that contains firearms unless the firearms are secured and the IDOC District Manager approves that the Defendant may reside in that residence. E.F.
13. **Cost of Supervision:** Defendant shall comply with Idaho Code 20-225 which authorizes the IDOC to collect a cost of supervision fee. The Defendant shall pay supervision fees as directed by the department. E.F.
14. **Court Ordered Financial Obligations:** Defendant shall pay all costs, fees, fines, restitution and other Court ordered obligations before probation may be terminated. If the Court has not otherwise ordered a payment schedule for these financial obligations then these sums shall be paid as designated in a Payment Agreement which shall provide for minimum payments on a monthly basis to be completed with an agent of the IDOC. The payment plan shall be reviewed at least quarterly by the probation office. In addition to required monthly payments any monies received from inheritance, lottery winnings, federal or state tax refunds or similar "extraordinary" sources other than wages

shall be applied toward outstanding financial obligations. These financial obligations shall be paid monthly in at least the amount necessary to pay the financial obligations in full by the end of the probation period. Upon request, the Defendant shall provide Defendant's probation officer with records of any financial accounts in which the Defendant has an interest. In addition Defendant shall provide copies to IDOC of tax returns, credit reports or any other documentation that may reflect upon the Defendant's ability to pay these financial obligations. E.E.

15. Evaluation and Program Plan: Defendant shall obtain any treatment evaluation deemed necessary as ordered by the Court or requested by any agent of IDOC. The Defendant shall meaningfully participate in and successfully complete any treatment, counseling or other programs deemed beneficial to the Defendant and as directed by the Court or any agent of the IDOC. The Defendant may be required to attend treatment, counseling or other programs at Defendant's own expense. E.E.

16. Employment/Alternative Plan: Defendant shall seek and maintain gainful, verifiable, full-time employment. Defendant shall not accept employment, cause himself or herself to be terminated from employment or change employment without first obtaining written permission from Defendant's supervising officer. In lieu of full-time employment, the Defendant may participate in full-time education, a combination of employment and education, vocational program or other alternative plan based on the offender's specific situation and as approved by Defendant's supervising officer. E.E.

17. Alcohol: Defendant shall not purchase, possess, or consume alcoholic beverages in any form. Defendant shall not enter any establishment such bars, taverns, clubs or similar facilities where alcohol is sold by the drink. Further, Defendant shall not associate with any individuals who are consuming or possessing alcohol. This latter restriction shall apply to associations such as parties, gatherings or the consumption of alcohol in restaurants or other eating establishments. E.E.

18. Controlled Substances: Defendant shall not use or possess any illegal drug or any substance that simulates the effect of an illegal drug (such as but not limited to haze, spice, or other synthetic products) or any paraphernalia as defined under Idaho law. Nor shall Defendant use or possess any substance Defendant's probation officer forbids Defendant from having. The Defendant shall not use or possess any controlled substances unless lawfully prescribed for Defendant by a licensed physician or dentist. The Defendant shall use medications only in the manner prescribed by Defendant's physician or dentist. E.E.

19. Substance Abuse Testing: The Defendant shall submit to any test for alcohol or controlled substances as defined above as requested and directed by any agent of IDOC or any law enforcement officer if that law enforcement officer

has a legal basis for requesting testing. The Defendant may be required to obtain tests at Defendant's own expense. If the results of the test(s) indicate an adulterant has been used to interfere with the results, that test will be deemed to affirmatively establish that the Defendant has used alcohol or a prohibited controlled substance. E.F.

20. **Stipulation to the admission of test results:** Should the Defendant be requested to submit to tests for alcohol or controlled substances, the Defendant shall stipulate to the admission of those blood, urine, or breath test results in the form of a certified affidavit at any probation hearing following a judicial determination that live testimonial evidence would otherwise be impractical. However, the Defendant, at the Defendant's own expense may have the lab analysis of the Defendant's blood, urine, or breath performed at an in-state approved lab of the Defendant's choosing upon notifying the official administering the test at the time the test is requested. E.F.

21. **Searches and Seizures:** As a term and condition of probation, and during the period in which Defendant is on probation, the Defendant does hereby consent to searches and seizures without a warrant by any agent of IDOC or any law enforcement officer of Defendant's person, residence, vehicle, personal property and any other real property or structures owned or leased by the Defendant or over which the Defendant has the right to exercise control. Defendant shall inform anyone Defendant lives with that the entire residence is subject to search and shall not reside with anyone who refuses to agree to such searches. Defendant agrees that such searches and seizures may be conducted at any time in the discretion those identified in this paragraph without the requirement that the searching person(s) has probable cause or a reasonable suspicion of criminal activity or a violation of probation to justify the search or seizure. Defendant agrees that the Defendant is not required to be present at the time of the search. Defendant does not have any right to revoke this consent to the searches or seizures as described herein. The Defendant hereby specifically waives any and all rights he or she may have regarding searches or seizures as provided by the Fourth Amendment to the U.S. Constitution and as provided in Article I, section 17 of the Idaho State Constitution. This consent to search and seize also includes those searches or seizures authorized and required by any other term and condition of probation set forth herein, such as those identified in the paragraphs labeled **Cooperation with Supervision and Substance Abuse Testing.** E.F.

22. **Driving Privileges:** Defendant shall not operate a motor vehicle while Defendant's driving privileges are suspended, or without a valid driver's license and proper insurance as required by State law. E.F.

23. **Confidential Informant:** The Defendant shall not act as a confidential informant for law enforcement, except as allowed by IDOC policy and with the consent of both the Court and IDOC. EE

24. **Associations:** The Defendant shall not associate with any person(s) designated by any agent of IDOC. EE

25. **Discretionary county jail time to be served in the future:** Upon certification that the Defendant has failed to follow the conditions of probation and upon recommendation of the Defendant's probation officer that a jail sanction is warranted as an appropriate sanction in lieu of a formal probation violation, the Defendant may be required to serve not more than 30 days in the county jail as a condition of probation at the discretion of the Defendant's probation officer with the advance approval of the Court. An application requesting jail time shall be submitted to the Court and may be submitted ex parte without notice to the Defendant, Defendant's counsel, or the State and without necessity for a hearing. Upon consideration the Court may authorize imposition of county jail time, with or without work release privileges and shall specify the dates of such jail time. The Defendant may request a hearing before the Court after imposition of discretionary jail time, but the Defendant shall not be released from custody while serving discretionary jail time without an order of the Court. Defendant shall not be entitled to any credit against this discretionary jail time for time previously spent in jail because discretionary jail time is a condition of probation. EE

26. **Additional Rules:** Defendant agrees that other reasonable supervision rules may be imposed on Defendant by IDOC. All additional rules will be explained to the Defendant and provided to Defendant, in writing, by an agent of IDOC. EE

I have read, or have had read to me, and have initialed, the above general conditions of probation. I understand and accept these conditions of supervision. I agree to abide by and conform to them and understand that my failure to do so may result in revocation of my probation.

Edgar Farfan

Defendant Signature

Edgar Farfan

Name(printed)

Date 12/29/14

Witnessing Probation Officer's Signature

Witnessing Probation Officer's Name (printed)

Date _____

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, ID 83303
Telephone: (208) 734-1155
Fax #: (208) 734-1161
Idaho State Bar # 7193

DISTRICT COURT
TWIN FALLS CO., IDAHO
FILED

2015 JAN -6 PM 3:45

BY _____
CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff/Respondent.

vs.

EDGAR FARFAN-GALVAN,

Defendant/Appellant.

No. CR 14-11509

NOTICE OF APPEAL

TO: THE ABOVE NAMED RESPONDENT, PROSECUTOR, GRANT LOEBS, P.O. BOX
126, TWIN FALLS, IDAHO AND THE CLERK OF THE ABOVE ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant, Edgar Farfan-Galvan, appeals against the above-named respondent, the State of Idaho, to the Idaho Supreme Court from the JUDGMENT OF CONVICTION UPON A PLEA OF GUILTY TO ONE FELONY COUNT, SUSPENDING

SENTENCE AND ORDER PLACING DEFENDANT ON PROBATION entered in the above entitled action on December 29, 2014 and the MEMORANDUM AND ORDER RE: MOTION TO DISMISS OR REMAND entered in the above entitled action on December 4, 2014 in the Twin Falls County District Court, the Honorable G. Richard Bevan, presiding.

2. That the party has a right to appeal to the Idaho Supreme Court, and the judgment or order described in paragraph 1 above are appealable orders under and pursuant to I.A.R. 11(c)(1).

() This is an EXPEDITED APPEAL pursuant to I.A.R. 12.2.

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.

(a) Judgment of Conviction Upon a Plea of Guilty to One Felony Count,
Suspended Sentence and Order Placing Defendant on Probation entered
on December 29, 2014.

(b) Memorandum and Order Re: Motion to Dismiss or Remand entered on
December 4, 2014.

4. Has an order been entered sealing all or any portion of the record? If so, what portion? No.

5. Appellant requests the preparation of the entire standard clerk's record as defined in I.A.R. 25(c). The appellant also requests the preparation of the following portions of the reporter's transcript:

- (a) Reporter's Transcript of the Sentencing hearing held on December 29, 2014.
- (b) Reporter's Transcript of the Defendant's Motion to Dismiss or Remand hearing held on December 3, 2014.
- (c) The appellant requests the preparation of the following portions of the reporter's transcript in ☐ hard copy ☐ electronic format ☒ both.

6. The appellant requests the following documents to be included in the clerk's record in addition to those automatically included under I.A.R. 28.

- (a) Judgment of Conviction Upon A Plea of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on Probation entered on December 29, 2014.
- (b) Memorandum and Order Re: Motion to Dismiss or Remand entered on December 4, 2014.
- (c) Pre-Sentence Investigation Report, including any exhibits, attachments or addendums thereto;
- (d) The Addendum Pre-sentence Report, including any and all exhibits.

7. I certify:

- (a) That a copy of this notice of appeal has been served on each reporter of whom a transcript has been requested as named below at the address set out below:

Name and Address: Virginia Bailey, P.O. Box 126, Twin Falls, Idaho
83303.

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code 31-3220, 31-3220A, I.A.R. 27(e);
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code 31-3220, 31-3220A, I.A.R. 23(a)(8);
- (d) That arrangements have been made with Twin Falls County who will be responsible for paying for the reporter's transcript, as the client is indigent, Idaho Code 31-3220, 31-3220A, I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20 and the attorney general of Idaho pursuant to Section 67-1401(1), Idaho Code.

DATED This 6th day of January, 2015.



Samuel S. Beus
Deputy Public Defender

CERTIFICATE OF DELIVERY

I, the undersigned, hereby certify that on the 6 day of January, 2015, NOTICE OF APPEAL was served as follows:

By delivering a true and correct copy of the foregoing to the following by placing said copy in the appropriately-marked mailbox/folder located in the Court Services Department of the Twin Falls County Courthouse:

GRANT LOEBS
PROSECUTING ATTORNEY
TWIN FALLS COUNTY

By U.S. Mail, with postage prepaid, in an envelope addressed to the following:

Court Reporter
Virginia Bailey
P.O. Box 126
Twin Falls, Idaho 83303

Clerk of the Idaho Supreme Court
P.O. Box 83720
Boise, ID 83720

Attorney General's Office
P.O. Box 83720 Room, 210
Boise, ID 83720

Office of the State Appellate Public Defender
3050 North Lake Harbor Suite 100
Boise, ID 83703



Legal Secretary

OFFICE OF THE PUBLIC DEFENDER
Attorneys at Law
P.O. Box 126
Twin Falls, ID 83303
Telephone: (208)734-1155
Fax #: (208) 734-1161
Idaho State Bar # 7193

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2015 JAN -7 AM 10: 25

BY _____ CLERK
_____ DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|----------------------|---|----------------------------|
| STATE OF IDAHO, |) | |
| |) | |
| Plaintiff, |) | CASE NO. CR 14-11509 |
| |) | |
| |) | |
| vs. |) | NOTICE AND ORDER |
| |) | APPOINTING STATE APPELLATE |
| EDGAR FARFAN-GALVAN, |) | PUBLIC DEFENDER IN DIRECT |
| |) | APPEAL |
| Defendant. |) | |
| _____ |) | |

TO: The Office of the Idaho State Appellate Public Defender:

The above-named petitioner/appellant has filed a notice of appeal on January 6, 2015, (copy attached) and/or has moved the Court for appointment of an appellate public defender in direct appeal of the Judgment of Conviction Upon A Plea of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on Probation entered on December 29, 2014 and the Memorandum and Order Re: Motion to Dismiss or Remand entered on December 4, 2014, by Honorable G. Richard Bevan, District Judge, Twin Falls County.

ORDER

 **ORIGINAL** 139

This Court being satisfied that said defendant-appellant is a needy person entitled to the services of the State Appellate Public Defender per §19-863A, Idaho Code,

IT IS HEREBY ORDERED, per §19-870, Idaho Code, that you are appointed to represent the defendant-appellant in all matters as indicated herein, or until relieved by further order of the court.

IT IS HEREBY ORDERED, pursuant to I.A.R. Rule 1, the parties, the Clerk of the court and the Court Reporter, shall follow the established Idaho Appellate Rules in the preparation of this appeal record.

IT IS FURTHER ORDERED that the State Appellate Public Defender's Office is provided the following information by the Court:

- 1) The defendant is in the custody of the Idaho Department of Corrections.
- 2) A copy of the Judgment of Conviction Upon A Plea of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on Probation entered on December 29, 2014 and the Memorandum and Order Re: Motion to Dismiss or Remand entered on December 4, 2014.
- 3) A copy of the Notice of Appeal or Application.
- 4) A copy of the Register of Actions in this matter.
- 5) A copy of the Pre-Sentence Investigation Report.

IT IS SO ORDERED.

Dated: 01.07.15

Signed: J. [Signature]

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 8 day of January, 2015 served a true and correct copy of the attached NOTICE AND ORDER APPOINTING STATE APPELLATE PUBLIC DEFENDER IN DIRECT APPEAL by placing a copy in the United States mail, postage prepaid, addressed to:

State Appellate Public Defender
3050 N. Lake Harbor Lane Ste. 100
Boise, Idaho 83703

Email

GRANT P. LOEBS
Twin Falls County Prosecuting Attorney
P.O. Box 126
Twin Falls, ID 83303-0126

Box

TWIN FALLS COUNTY
PUBLIC DEFENDER
P.O. Box 126
Twin Falls, ID 83303-0126

Box

Court Reporter:
Virginia Bailey
P.O. Box 126
Twin Falls, ID 83303

Email

OFFICE OF THE ATTORNEY GENERAL
Statehouse, Room 210
P.O. Box 83720
Boise, ID 83720

Email

Clerk of the Supreme Court
P.O. Box 83720
Boise, ID 83720

Email

Shane Cooper
Clerk of the Court.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2015 JAN -8 AM 11:26

BY _____ CLERK
DEPUTY

STATE OF IDAHO,

Plaintiff/Respondent,

vs

EDGAR FARFAN-GALVAN, a.k.a.
EDGAR FARFAN, a.k.a. EDGAR G.
FARFAN GALVAN, a.k.a. EDGAR
GALVAN FARFAN, a.k.a. EDGAR
GALVAN-FARFAN a.k.a. EDGAR
GALVAN

Defendant/Appellant.

CASE NO. CR 14-11509

CLERK'S CERTIFICATE
OF APPEAL

APPEAL FROM: Fifth Judicial District, Twin Falls County.
Honorable G. Richard Bevan, presiding

CASE NUMBER FROM COURT: CR 14-11509

ORDER OR JUDGMENT APPEALED FROM: Judgment of Conviction Upon a Plea
of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendanon
Probation, I.C. § 19-2601(2) and (5) which was entered in the above-entitled matter on
December 29, 2014.

ATTORNEY FOR RESPONDENT: Lawrence Wasden

ATTORNEY FOR APPELLANT: Sara Thomas

APPEALED BY: Edgar Farfan-Galvan

APPEALED AGAINST: State of Idaho

NOTICE OF APPEAL FILED: January 6, 2015

AMENDED APPEAL FILED:

NOTICE OF CROSS-APPEAL FILED:

CLERK'S CERTIFICATE OF APPEAL - 1

AMENDED NOTICE OF CROSS-APPEAL FILED:

APPELLATE FEE PAID: exempt

ESTIMATED CLERK'S RECORD FEE PAID: exempt

RESPONDENT OR CROSS-RESPONDENT'S REQUEST FOR ADDITIONAL
RECORD FILED:

RESPONDENT OR CROSS-RESPONDENT'S REQUEST FOR ADDITIONAL
REPORTER'S TRANSCRIPT FILED:

WAS DISTRICT COURT REPORTER'S TRANSCRIPT REQUESTED: Yes

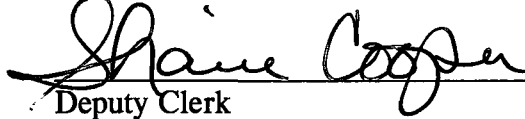
ESTIMATED NUMBER OF PAGES: _____.

IF SO, NAME OF EACH REPORTER OF WHOM A TRANSCRIPT HAS BEEN
REQUESTED AS NAMED BELOW AT THE ADDRESS SET OUT BELOW:

NAME AND ADDRESS: Virginia Bailey, P. O. Box 126, Twin Falls, ID 83303-0126

DATED: January 8, 2015

KRISTINA GLASCOCK
Clerk of the District Court


Deputy Clerk

Sharie Cooper

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

From: supremecourtdocuments@idcourts.net
Sent: Thursday, February 12, 2015 11:18 AM
To: STHOMAS@SAPD.STATE.ID.US; documents@sapd.state.id.us;
GINNYBAILEY@HOTMAIL.COM; RBEVAN@CO.TWIN-FALLS.ID.US; scooper@co.twin-falls.id.us; ecf@ag.idaho.gov; scooper@co.twin-falls.id.us
Subject: 42686 STATE v. FARFAN-GALVAN (Twin Falls CR14-11509)
Attachments: 42868-CS .pdf; 42868-NOA.pdf

2015 FEB 12 PM 4:05

CLERK

DEPUTY

FILED NOTICE OF APPEAL. CLERK'S RECORD AND REPORTER'S TRANSCRIPT DUE 4-17-15. TRANSCRIPT(S) REQUESTED - SEE ATTACHMENT(S). Please Note: All notices from the Supreme Court will be served via email to the district court clerk, the court reporter, the district judge, and counsel of record. The Court's email notices to counsel will be sent to the current email address of record according to the Idaho State Bar. If you would like others to receive additional electronic notices of the proceedings in this appeal please call the Supreme Court Clerk's Office at 334-2210. Pro se without a valid email address will be served notice via U.S. Mail. Please review the Clerk's Certificate for any errors, if Clerk's Certificate is attached.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

STATE OF IDAHO,

Plaintiff/Respondent,

vs

EDGAR FARFAN-GALVAN, a.k.a.
EDGAR FARFAN, a.k.a. EDGAR G.
FARFAN GALVAN, a.k.a. EDGAR
GALVAN FARFAN, a.k.a. EDGAR
GALVAN-FARFAN a.k.a. EDGAR
GALVAN

Defendant/Appellant.

Supreme Court No. 42868

CASE NO. CR 14-11509

CLERK'S CERTIFICATE
OF APPEAL

APPEAL FROM: Fifth Judicial District, Twin Falls County.
Honorable G. Richard Bevan, presiding

CASE NUMBER FROM COURT: CR 14-11509

ORDER OR JUDGMENT APPEALED FROM: Judgment of Conviction Upon a Plea
of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on
Probation, I.C. § 19-2601(2) and (5) which was entered in the above-entitled matter on
December 29, 2014.

ATTORNEY FOR RESPONDENT: Lawrence Wasden

ATTORNEY FOR APPELLANT: Sara Thomas

APPEALED BY: Edgar Farfan-Galvan

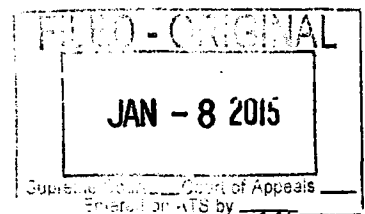
APPEALED AGAINST: State of Idaho

NOTICE OF APPEAL FILED: January 6, 2015

AMENDED APPEAL FILED:

NOTICE OF CROSS-APPEAL FILED:

CLERK'S CERTIFICATE OF APPEAL - 1



AMENDED NOTICE OF CROSS-APPEAL FILED:

APPELLATE FEE PAID: exempt

ESTIMATED CLERK'S RECORD FEE PAID: exempt

RESPONDENT OR CROSS-RESPONDENT'S REQUEST FOR ADDITIONAL
RECORD FILED:

RESPONDENT OR CROSS-RESPONDENT'S REQUEST FOR ADDITIONAL
REPORTER'S TRANSCRIPT FILED:

WAS DISTRICT COURT REPORTER'S TRANSCRIPT REQUESTED: Yes

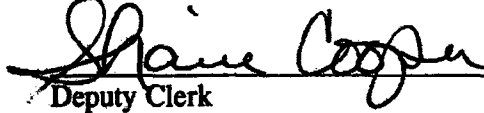
ESTIMATED NUMBER OF PAGES: _____.

IF SO, NAME OF EACH REPORTER OF WHOM A TRANSCRIPT HAS BEEN
REQUESTED AS NAMED BELOW AT THE ADDRESS SET OUT BELOW:

NAME AND ADDRESS: Virginia Bailey, P. O. Box 126, Twin Falls, ID 83303-0126

DATED: January 8, 2015

KRISTINA GLASCOCK
Clerk of the District Court


Deputy Clerk

Sharie Cooper

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

From: supremecourtdocuments@idcourts.net
Sent: Wednesday, February 18, 2015 12:05 PM
To: scooper@co.twin-falls.id.us; RBEVAN@CO.TWIN-FALLS.ID.US; ecf@ag.idaho.gov;
SKENYON@IDCOURTS.NET; scooper@co.twin-falls.id.us;
GINNYBAILEY@HOTMAIL.COM; documents@sapd.state.id.us; CLERK
STHOMAS@SAPD.STATE.ID.US
Subject: 42868 - STATE v. FARFAN-GALVAN (Twin Falls CR-2014-11509) *AC* DEPUTY

PLEASE NOTE THE CORRECTED SUPREME COURT DOCKET NO. 42868-2015. DUE DATE FOR CLERK'S RECORD AND REPORTER'S TRANSCRIPT REMAINS SET FOR 04-17-15. --Thank you!
Supreme Court Clerk's Office.

CR14-11509

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

ERIK R. LEHTINEN
Chief, Appellate Unit
I.S.B. #6247
3050 N. Lake Harbor Lane, Suite 100
Boise, ID 83703
(208) 334-2712

2015 FEB 25 PM 1:12

BY _____
CLERK
DEPUTY

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR TWIN FALLS COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

EDGAR FARFAN-GALVIN,

Defendant-Appellant.

CASE NO. CR 2014-11509
S.C. DOCKET NO. 42868

AMENDED
NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, GRANT LOEBS, TWIN FALLS COUNTY PROSECUTOR, 425 SHOSHONE ST 4TH FLOOR, TWIN FALLS, ID, 83303-0126, AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the Judgment of Conviction Upon a Plea of Guilty to One Felony Count, Suspending Sentence and Order Placing Defendant on Probation entered in the above-entitled action on the 29th day of December, 2014, the Honorable G. Richard Bevan, presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R.) 11(c)(1-10).

3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in failing to grant the appellant's Motion to Dismiss or Remand?

(b) Did the district court abuse its discretion by imposing an excessive sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. **Reporter's Transcript.** The appellant requests the preparation of the **entire reporter's standard transcript** as defined in I.A.R. 25(c). The appellant also requests the preparation of the additional portions of the reporter's transcript:

(a) Motion Hearing held December 3, 2014 (Court Reporter: Virginia Bailey, no estimation of pages was listed on the Register of Actions);

(b) Entry of Guilty Plea held December 22, 2014 (Court Reporter: Sabrina Vasquez, no estimation of pages was listed on the Register of Actions); and

(c) Sentencing Hearing held on December 29, 2014 (Court Reporter: Virginia Bailey, no estimation of pages was listed on the Register of Actions).

6. **Clerk's Record.** The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2) and all exhibits, recordings, and documents per I.A.R.

31. The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2) and I.A.R. 31:

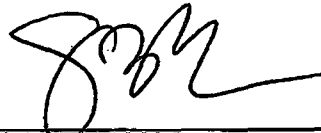
- (a) All items, including any affidavits, objections, responses, briefs or memorandums, offered in support of or in opposition to the Motion to Dismiss or Remand filed or lodged, by the state, appellant or the court including, but not limited to, the State's Objection to Defendant's Motion to Dismiss and/or Remand filed December 1, 2014;
- (b) Copy of Transcript filed in CR 2010-10207 for Sentencing Hearing held October 5, 2010, and filed in this case November 24, 2014;
- (c) Guilty Plea Advisory filed December 22, 2014;
- (d) Offer filed December 22, 2014;
- (e) Conditional Plea filed December 29, 2014; and
- (f) Any exhibits, including but not limited to letters or victim impact statements, addendums to the PSI or other items offered at sentencing hearing. Except that any pictures or depictions of child pornography necessary to the appeal need not be sent, but may be sought later by motion to the Idaho Supreme Court.

7. I certify:

- (a) That a copy of this Amended Notice of Appeal has been served on the Court Reporters, Virginia Bailey and Sabrina Vasquez;

- (b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));
- (c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));
- (d) That arrangements have been made with Twin Falls County who will be responsible for paying for the reporter's transcript, as the client is indigent, I.C. §§ 31-3220, 31-3220A, I.A.R. 24(e); and
- (e) That service has been made upon all parties required to be served pursuant to I.A.R. 20.

DATED this 25th day of February, 2015.



SARA B. THOMAS
State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I have this 25th day of February, 2015, caused a true and correct copy of the attached AMENDED NOTICE OF APPEAL to be placed in the United States mail, postage prepaid, addressed to:

SAMUEL S BEUS
TWIN FALLS COUNTY PUBLIC DEFENDER
231 4TH AVE N
PO BOX 126
TWIN FALLS ID 83303-0126

SABRINA VASQUEZ
COURT REPORTER
PO BOX 126
TWIN FALLS ID 83303-0126

VIRGINIA BAILEY
COURT REPORTER
PO BOX 126
TWIN FALLS ID 83303-0126

GRANT LOEBS
TWIN FALLS COUNTY PROSECUTOR
PO BOX 126
425 SHOSHONE ST 4TH FLOOR
TWIN FALLS ID 83303-0126

KENNETH K. JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
P.O. BOX 83720
BOISE, ID 83720-0010

Hand delivered to Attorney General's mailbox at Supreme Court


CINTHYA R. HERRERA
Administrative Assistant

SBT/tmf/crh

Sharie Cooper

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

From: supremecourtdocuments@idcourts.net
Sent: Saturday, March 07, 2015 12:15 PM
To: RBEVAN@CO.TWIN-FALLS.ID.US; documents@sapd.state.id.us; svasquez61@gmail.com;
scooper@co.twin-falls.id.us; ecf@ag.idaho.gov; GINNY BAILEY@HOTMAIL.COM;
STHOMAS@SAPD.STATE.ID.US
Subject: 42868 - STATE v. FARFAN-GALVAN (Twin Falls CR-2014-11509)
Attachments: 42868 ANOA.pdf

2015 MAR -9 AM 11:58

CLERK

DEPUTY

FILED AMENDED NOTICE OF APPEAL (documents, transcripts and reporters identified) - PLEASE SEE ATTACHMENT. RESET DUE DATE - TRANSCRIPT AND CLERK'S RECORD DUE 04-30-15.

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

2015 MAR 11 PM 4:40

TO: CLERK OF THE COURT
IDAHO SUPREME COURT
P. O. BOX 83720
BOISE, IDAHO 83720-0101

BY _____ CLERK

DEPUTY

| | | |
|----------------------|---|------------------|
| STATE OF IDAHO, |) | |
| |) | |
| Respondent, |) | DOCKET NO. 42868 |
| |) | |
| vs. |) | |
| |) | |
| EDGAR FARFAN-GALVAN, |) | |
| |) | |
| Appellant. |) | |
| ----- |) | |

NOTICE OF TRANSCRIPT LODGED

NOTICE IS HEREBY GIVEN that on this date I lodged a Reporter's Transcript on Appeal of 43 pages in length for the above-entitled appeal, with the Clerk of the District Court, County of Twin Falls, in the Fifth Judicial District.

HEARINGS:**December 3, 2014 - Motion to Dismiss or Remand**
December 29, 2014 - Sentencing

DATED this 11th day of March, 2015.

Digitally signed by Virginia Bailey
DN: cn=Virginia Bailey, o, ou, email=ginnybailey@hotmail.com, c=US
Date: 2015.03.10 20:54:59 -06'00'-----
Virginia M. Bailey, RPR, CSR No. 262
Official Court Reporter
Fifth Judicial District
State of Idaho

NOTICE OF REPORTER'S TRANSCRIPT LODGED

DISTRICT COURT
TWIN FALLS CO. IDAHO
FILED

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS
BY _____ CLERK

DEPUTY

| | | |
|----------------------|---|----------------------------|
| STATE OF IDAHO, |) | |
| |) | |
| Respondent, |) | SUPREME COURT #42868 |
| |) | DISTRICT COURT CR 14-11509 |
| vs. |) | |
| |) | |
| EDGAR FARFAN-GALVAN, |) | NOTICE OF LODGING |
| |) | |
| Appellant. |) | |
| _____ |) | |

To: THE CLERK OF THE IDAHO SUPREME COURT

NOTICE IS HEREBY GIVEN that on March 22, 2015,
I lodged a transcript of 13 pages in length for the
above-referenced appeal by email with the District
Court Clerk of Twin Falls County in the Fifth Judicial
District. The transcript includes: Entry of Guilty
Plea, 12/22/14.

A PDF copy of the transcript is being e-mailed to
sctfilings@idcourts.net; kloertscher@idcourts.net;
documents@sapd.state.id.us; ecf@ag.idaho.gov;
scooper@co.twin-falls.id.us.

Sabrina Vasquez
Official Court Reporter

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|-------------------------------|---|-------------------------|
| STATE OF IDAHO, |) | SUPREME COURT NO. 42868 |
| |) | CASE NO. CR 14-11509 |
| Plaintiff/Respondent, |) | |
| |) | |
| vs |) | CLERK'S CERTIFICATE |
| |) | |
| EDGAR FARFAN-GALVAN, a.k.a. |) | |
| EDGAR FARFAN, a.k.a. EDGAR G. |) | |
| FARFAN GALVAN, a.k.a. EDGAR |) | |
| GALVAN FARFAN, a.k.a. EDGAR |) | |
| GALVAN-FARFAN a.k.a. EDGAR |) | |
| GALVAN |) | |
| |) | |
| Defendant/Appellant. |) | |

I, KRISTINA GLASCOCK, Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, do hereby certify that the foregoing CLERK'S RECORD on Appeal in this cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents requested by Appellate Rule 28.

I do further certify that all exhibits, offered or admitted in the above-entitled cause, will be duly lodged with the Clerk of the Supreme Court

WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 17th day of March, 2015.

KRISTINA GLASCOCK
Clerk of the District Court


Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|-------------------------------|---|-------------------------|
| STATE OF IDAHO, |) | SUPREME COURT NO. 42868 |
| |) | CASE NO. CR 14-11509 |
| Plaintiff/Respondent, |) | |
| |) | |
| vs |) | CERTIFICATE OF EXHIBITS |
| |) | |
| EDGAR FARFAN-GALVAN, a.k.a. |) | |
| EDGAR FARFAN, a.k.a. EDGAR G. |) | |
| FARFAN GALVAN, a.k.a. EDGAR |) | |
| GALVAN FARFAN, a.k.a. EDGAR |) | |
| GALVAN-FARFAN a.k.a. EDGAR |) | |
| GALVAN |) | |
| |) | |
| <u>Defendant/Appellant.</u> |) | |

I, KRISTINA GLASCOCK, Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, do hereby certify:

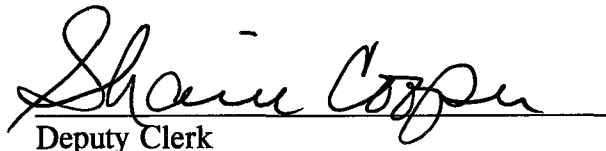
That the following is a list of exhibits to the record that have been filed during the course of this case.

PSI Face Sheet (Confidential), Filed August 12, 2013

Sentencing CD Transcription in CR 10-10207, Filed November 24, 2014

In WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 17th day of March, 2015.

KRISTINA GLASCOCK
Clerk of the District Court


Deputy Clerk

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

| | | |
|-------------------------------|---|-------------------------|
| STATE OF IDAHO, |) | SUPREME COURT NO. 42868 |
| |) | CASE NO. CR 14-11509 |
| Plaintiff/Respondent, |) | |
| |) | |
| vs |) | CERTIFICATE OF SERVICE |
| |) | |
| EDGAR FARFAN-GALVAN, a.k.a. |) | |
| EDGAR FARFAN, a.k.a. EDGAR G. |) | |
| FARFAN GALVAN, a.k.a. EDGAR |) | |
| GALVAN FARFAN, a.k.a. EDGAR |) | |
| GALVAN-FARFAN a.k.a. EDGAR |) | |
| GALVAN |) | |
| |) | |
| <u>Defendant/Appellant.</u> |) | |

I, KRISTINA GLASCOCK, Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, do hereby certify that I have personally served or mailed, by United States Mail, one copy of the CLERK'S RECORD and REPORTER'S TRANSCRIPTS to each of the Attorneys of Record in this cause as follows:

SARA THOMAS
State Appellate Public Defender
3050 North Lake Harbor Lane
Suite 100
Boise, Idaho 83703

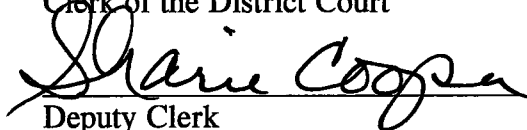
LAWRENCE WASDEN
Attorney General
Statehouse Mail Room 210
P.O. Box 83720
Boise, Idaho 83720-0010

ATTORNEY FOR APPELLANT

ATTORNEY FOR RESPONDENT

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said this 17th day of March, 2015.

KRISTINA GLASCOCK
Clerk of the District Court


Deputy Clerk